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Acts of the governor general of India in council 1838 to 1841

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ACT No. II. OF 1838.

JUDGE OF THE DISTRICT
JUDGE OF BHAUGULP

Passed by the Hon'ble the President of the Council of India in Council, on the 5th January, 1838.

I. IT is hereby enacted, that from the 1st day of February 1838, Salt shall not be manufactured at any place within the territories subject to the authority of the Lieutenant Governor of the North Western Provinces, the district beyond the right bank of the Jumna river excepted, unless the person conducting the manufacture shall before preparing works for the production of such Salt give notice in writing to the Collector of the district in which the place of manufacture may be situated, of his intention to manufacture Salt therein.

II. And it is hereby enacted, that upon receiving such notice as is prescribed in the preceding Section, the Collector of the district shall, by an order under his seal and signature, depute one or more officers, who shall be stationed for such time as the said Collector shall think proper at every such place of manufacture, and shall have power to take account of the Salt manufactured and stored, and to prevent the removal of the Salt until the Government duty thereon shall have been paid.

III. And it is hereby enacted, that every proprietor of Salt Works within the North Western Provinces, at which an officer shall be stationed as above provided, shall pay to the Collector the wages of one officer at the rate of 10 Rupees per mensem for so long as such officer shall be retained for the supervision

supervision of the Works; and if the Collector shall see fit to employ more than one officer to watch any set of Works, or to employ one officer receiving larger allowances than 10 Rupees per month, the wages of such extra officers or the extra wages of such one officer, shall be defrayed by Government.

IV. And it is hereby enacted, that if any Salt Works be found producing Salt, of which notice has not been given in the manner prescribed by the first Section of this Act, such Works shall be destroyed, and any Salt stored thereat shall be seized and confiscated.

V. And it is hereby enacted, that it shall be the duty of every party undertaking engagements with Government for the Land Revenue, either as a proprietor or farmer, and of every proprietor of Lakhiraj lands, upon whose estate, farm, or lakhiraj estate, there shall be any Works producing Salt, of which Works notice has not been given in the manner prescribed by the first Section of this Act, to give notice of the same in writing to the nearest public officer of Police or Land Revenue within ten days from the date on which the Works were first prepared, and every such proprietor, farmer, or proprietor of lakhiraj estate, who shall knowingly omit to give such notice, shall forfeit a sum not exceeding 500 Rupees for every such Salt Work.

VI. And it is hereby enacted, that the Magistrate or Joint Magistrate of any City or District shall be competent to receive and determine all charges on account of things done in contravention of this Act.

VII. And it is hereby enacted, that whoever offers any resistance to any officer appointed under the authority of this Act, in the exercise of the lawful power of such officer, shall be punished in like manner as if the resistance had been offered to the ordinary process of a Collector.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. VII. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 23rd April, 1838.

IT is hereby enacted, that it shall be lawful for a Judge of any Zillah or City Court, within the territories subject to the Presidency of Fort William in Bengal, to exercise the powers vested in a single Judge of the Sudder Dewanny Adawlut, by Clause 2, Section II. Regulation IX. of 1831 of the Bengal Code.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. X. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 30th April, 1838.

I. IT is hereby enacted, that Regulation X. 1817 of the Bengal Code, be repealed.

II. And it is hereby enacted, that the Functionaries who are or may be appointed in the Province of Kumaon, be henceforth placed under the control and superintendence, in Civil Cases, of the Court of Sudder Dewanny Adawlut at Allahabad, in Criminal Cases of the Court of Nizamut Adawlut at Allahabad, and in Revenue Cases of the Sudder Board of Revenue at Allahabad; and that such control and superintendence shall be exercised in conformity with such instructions, as the said Functionaries may have received, or may hereafter receive, from the Government of the North Western Provinces of the Presidency of Fort William.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XI. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 14th May, 1838.

I. IT is hereby enacted, that Section XV. Regulation XIX. of 1814, of the Bengal Code, be repealed.

II. And it is hereby enacted, that it shall be lawful for the Sudder Board of Revenue at Calcutta, with the sanction of the Governor of Bengal, and for the Sudder Board of Revenue at Allahabad, with the sanction of the Functionary exercising the Authority of Government in the North Western Provinces, to fix the remuneration of an Ameen, or other person employed to effect a partition of an Estate under the Regulations enacted for that purpose, and to cause the same to be levied from the parties concerned in the same manner as an arrear of Revenue, at such periods, and in such proportions, as the said Boards may severally think fit.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XIII. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 21st May, 1838.

I. IT is hereby enacted, that it shall be competent to the Governor General of India in Council, by an Order in Council, to extend any part of the Provisions of Regulation XII. of 1833, to the Court of any Principal Sudder Ameen, Sudder Ameen or Moonsiff.

II. And it is hereby enacted, that it shall be lawful for the Governor General of India in Council to delegate the power given to him by Section I. of this Act to the Governor of Bengal, and to the Lieutenant Governor of the N. W. Provinces, or to any functionary exercising the authority of Government in the N. W. Provinces.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XX. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 27th August, 1838.

I. IT is hereby enacted, that from the First day of October next, Section VIII. Act XVII. 1837, be repealed.

II. And it is hereby enacted, that when there is no Bhangee Post established on any line of road, letters and packets exceeding in weight 12 Tolas, and not exceeding 40 Tolas, shall be received by Post Masters for transmission by the Letter Post under the Rules which follow.

First. If the letter or packet received for despatch be of the description specified in heads Nos. 1, 2 and 3 of the Schedule A, annexed to Act XVII. of 1837, the postage duty thereon shall be levied by rateable increase, as declared and provided in the said heads of the said Schedule, and the Post Masters shall forward every such letter or packet on the same terms, the Postage charge being rateably increased, as is provided in the said Act for letters and packets not exceeding 12 Tolas in weight.

Second. If any packets exceeding 12 Tolas in weight, and not exceeding 40 Tolas, when so brought for despatch along a road where there is no regular

Bhangee

Bhangee Post established, be certified by attestation written on the cover not to contain any of the things specified as subject to rateable postage duty under heads Nos. 1, 2 and 3 of the said Schedule, and further, if it be so certified that such packets do not contain any writing in contravention of Sections IX. and X. Act XVII. of 1837, every such packet shall in like manner be forwarded by the Letter Post being charged with duty as specified and prescribed in Table 4 Schedule A. for Bhangee Parcels. Provided, however, that it shall be in the power of the Post Master at the place of delivery to proceed for the discovery of any fraud or contravention of the law in respect of all packets, so conveyed by the letter post at Bhangee postage rates, in the manner prescribed in Section XXX. Act XVII. 1837. Provided, also, that Government shall not be responsible for any loss or damage which may occur in respect of any thing entrusted to the Post Master for conveyance by virtue of this Act, and that no person employed by the Government in the Post Office Department shall be responsible for any such loss or damage unless such person has caused such loss or damage maliciously or fraudulently.

III. And it is hereby enacted, that if packets exceeding 40 Tolas in weight be brought for despatch by the letter post at Bhangee rates, the same may be forwarded under the rules and restrictions prescribed in the preceding Section of this Act: provided, however, that the transmission of such over weight packets shall always be discretional with the Post Master to whom they may be brought for dispatch, to forward them at such times and in such manner as may be convenient.

IV. And it is hereby enacted, that no packet brought for despatch by Bhangee Post shall be returned from any Post Office on the ground that the Bhangee Post has not been laid for the whole distance to the place of delivery.

V. And

V. And it is hereby enacted, that, except as hereinafter is mentioned, if any person wilfully certify or cause to be certified by writing on any letter, cover or packet delivered at any Post Office for conveyance by Post what is not true in respect of such letter or packet, or in respect of its contents, for the purpose of defrauding the Post Office Revenue, every such person shall, on conviction, be subject to a fine of 50 Rupees for every such offence.

VI. And it is hereby enacted, that whoever shall send or cause to be sent by the Government Post any packet under the Provisions of this Act of the description mentioned in Table 2 of Schedule A, Act No. XVII. A. D. 1837, which shall contain any writing whatever other than writing which is necessarily part of the documents which such packet is stated to contain by attestation on the cover of such packet, knowing that it contains any writing not necessarily part of the documents which such packet is stated to contain by attestation on the cover, shall be punished with a fine of 50 Rupees.

VII. And it is hereby enacted, that whoever shall send or cause to be sent by the Government Post, under the Provisions of this Act, any Packet of the description mentioned in Table 3 of Schedule A, Act No. XVII. A. D. 1837, which shall contain any writing whatsoever except the direction on the cover, knowing that it contains any writing other than the direction on the cover, shall be punished with a fine of 50 Rupees.

VIII. And it is hereby enacted, that all fines incurred on account of letters or packets sent by the Letter Post or by the Bhangee Post in contravention of the Provisions of Sections IX. and X. of Act XVII. of 1837, as well as all fines by this Act authorized to be imposed, shall be demanded from the parties liable thereto by notice in writing from the Post Master General, or from any Post Master, and if not paid upon such demand the

the same shall upon conviction of the offender before any Magistrate for the place where the party charged may be residing, be levied, together with the costs attending the information and conviction by distress and sale of the Goods and Chattels of the party or parties offending, by warrant under the hand of such Magistrate. And if upon the return of such warrant, it shall appear that no sufficient distress can be had thereon, then it shall be lawful for any such Magistrate by warrant under his hand and seal to cause such offender or offenders to be committed to prison, there to remain for the space of two calendar months, unless such fines and all reasonable charges attending the same shall be sooner paid and satisfied.

IX. And it is hereby enacted, that it shall be lawful for the Post Master to detain any letter or packet in respect of which any party shall become liable to fine for a contravention of Sections IX. and X. of Act XVII. 1837, or of any of the Provisions of this Act, until the fine and all reasonable charges attending the same shall have been duly paid.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXI. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 27th August, 1838.

I. IT is hereby enacted, that it shall be lawful for the Governor General of India in Council, in his executive capacity, to direct the Coinage and issuing of any Silver Coins, of a value represented in even annas or sixteenths of the Company's Rupee, provided they be of the same standard as that prescribed for such Rupee by the Act No. XVII. of 1835, and of proportionate weight.

II. And it is hereby enacted, that the provisions of Act No. XVII. of 1835 and of Act No. XXXI. of 1837, applicable to the devices, inscriptions, and embellishments of the Coins coined and issued by virtue of the Act No. XVII. of 1835, shall be applicable to the Coins which may be coined and issued by virtue of this Act.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXII. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 10th September, 1838.

I. IT is hereby enacted, that from the First day of October 1838, it shall be competent to the Zillah and City Judges, in the Territories subject to the Presidency of Fort William in Bengal, to receive a Summary Appeal from the orders or decrees of the Moonsiffs subordinate to them, in cases in which such Moonsiffs may have refused to admit any suit regularly cognizable by them, or may have dismissed, on the ground of delay, informality, or other default, without an investigation of the merits of the case, any such suit which they may have admitted, or any suit regularly referred to them.

II. And it is hereby enacted, that the provisions contained in the Fifth and Six following Clauses of Section III. Regulation XXVI. of 1814, and Section II. Regulation XII. of 1833, and Section VII. Regulation IX. of 1831 of the Bengal Code, shall apply to the Summary Appeals preferred under the authority of this Act.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXIV. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 24th September, 1838.

IT is hereby enacted, that Section III. of Act XIX. of 1836, together with any other provisions of that Act which prescribe or imply that the Capital Stock of the Bank of Bengal shall not exceed seventy-five Lakhs of Rupees, shall from this day be repealed.

II. And it is hereby enacted, that it shall be lawful for the Governor General of India in Council whenever he shall see fit from time to time by an Order to be notified in the *Calcutta Gazette*, to authorize the Capital Stock of the said Bank to be increased, and to make such order and direction for the opening of subscriptions towards such increase of Capital as to him may seem fit, giving due notice to the Proprietors of the said Bank for the time being and allowing to them a period of not less than eighteen months to fill up such subscription.

III. And it is hereby enacted, that whenever such increase of Capital Stock of the Bank of Bengal shall be ordered by the Governor General of India in Council, the Proprietors entitled to share therein, shall not be debarred of the right to subscribe for the new Stock in the proportion of the shares they may be

be legally holding by reason of any limit to the quantity of Stock which a single Proprietor may hold that may be imposed by the Provisions of the Charter of the Bank, or by any Clause or Provision contained in Act No. XIX. of 1836.

IV. And it is hereby enacted, that it shall be lawful for the Governor General of India in Council, when he shall direct an increase to be made of the Capital Stock of the Bank of Bengal, to prescribe that the subscriptions shall be made upon each share respectively, in any given proportion to the amount of Stock represented by such share, and after subscription made at any time within the period of notice prescribed in Section II. of this Act, to permit the amount subscribed on account of any share or shares to be paid up and annexed to the Capital Stock of the Bank in such manner and at such dates as may be deemed most convenient and proper, and likewise to prescribe that the amount of new Capital that may not be subscribed for by Proprietors within the period of eighteen months so specified, shall be sold by Auction by an Officer of the Bank for the benefit of the said Bank, on some early date, after the close of such period, and that the proceeds of such sale shall be at the disposal of the Proprietors of the Bank by Resolution duly passed at their General Meetings, any thing in the existing Charter of the said Bank regarding the method of taking the subscriptions of new Capital to the contrary notwithstanding.

V. And it is hereby enacted, that it shall be lawful for the Governor General of India in Council at the time of ordering any increase of the Capital Stock of the Bank of Bengal to reserve the portion of such increase that may belong to Government by reason of its share of the Capital of the said Bank, and to fix any date within the period of eighteen months above specified, as that before which it shall be finally declared whether the Government will take

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the share of new Stock to which it is so entitled or will refuse the same, and in case of refusal by Government to take its share of new Stock, such Stock shall not be sold on account of the Proprietors at large as above provided for Stock not subscribed for by other Proprietors, but the amount to which the Government may be so entitled shall not be raised, and if the Government shall determine to subscribe for the share of new Capital to which it is entitled, it shall be lawful for the Governor General of India in Council either to retain the same or to order the sale of such new Stock or any portion thereof on account of Government in such manner and at such times as to him may seem fit.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann

ACT No. XXV. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 8th October, 1838.

I. IT is hereby enacted, that the words and expressions hereinafter mentioned shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say) the word "will" shall extend to a testament, and to a codicil, and to an appointment by will or by writing in the nature of a will in exercise of a power, and also to a disposition by will and testament of devise of the custody and tuition of any child by virtue of an Act passed in the twelfth year of the reign of King Charles the Second, intituled "An Act for taking away the "Court of Wards and liveries, and tenures *in capite* and by Knight's service and "purveyance, and for settling a revenue upon His Majesty in lieu thereof," or by virtue of an Act passed in the Parliament of Ireland in the fourteenth and fifteenth years of the reign of King Charles the Second, intituled "An Act for "taking away the Court of Wards and liveries, and tenures *in capite* and by "Knight's service," and to any other testamentary disposition, and the words "real estate" shall extend to messuages, lands, rents and hereditaments whether corporeal, incorporeal or personal, and to any undivided share thereof and to any

any estate, right or interest (other than a chattel interest) therein, and the words "personal estate" shall extend to leasehold estates and other chattels real, and also to monies, shares of Government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever which by law devolves upon the executor or administrator, and to any share or interest therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing, and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

II. And it is hereby enacted, that an Act passed in the thirty-second year of the reign of King Henry the Eighth, intituled "The Act of Wills, "Wards and primer seisins, whereby a man may devise two parts of his "land;" and also an Act passed in the thirty-fourth and thirty-fifth years of the reign of the said King Henry the Eighth, intituled "The Bill concerning "the explanation of Wills," and also an Act passed in the Parliament of Ireland in the tenth year of the reign of King Charles the First, intituled "An Act "how Lands, Tenements, &c. may be disposed by will or otherwise, and con- "cerning wards and primer seisins;" and also so much of an Act passed in the twenty-ninth year of the reign of King Charles the Second, intituled "An "Act for prevention of Frauds and Perjuries;" and of an Act passed in the Parliament of Ireland in the seventh year of the reign of King William the Third, intituled "An Act for prevention of Frauds and Perjuries as relates to "devises or bequests of lands or tenements, or to the revocation or alteration "of any devise in writing of any lands, tenements or hereditaments, or any "clause thereof, or to the devise of any estate *pur autre vie*, or to any such "estate being assets or to nuncupative wills, or to the repeal, altering or "changing of any will in writing concerning any goods or chattels or personal "estate, or any clause, devise or bequest therein;" and also so much of an Act

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passed in the fourth and fifth years of the reign of Queen Anne, entituled "An "Act for the amendment of the Law and the better advancement of Justice;" and of an Act passed in the Parliament of Ireland in the sixth year of the reign of Queen Anne, intituled "An Act for the amendment of the Law and the better advancement of justice" as relates to witnesses to nuncupative wills; and so far as the following Acts may be construed to have any operation within the territories of the East India Company, so much of an Act passed in the fourteenth year of the reign of King George the Second, intituled "An Act to amend the Law concerning "common recoveries," and to explain and amend an Act made in the twenty-ninth year of the reign of King Charles the Second, intituled "An Act for prevention of frauds and perjuries" as relates to estates *pur autre vie;* and also an Act passed in the twenty-fifth year of the reign of King George the Second, intituled "An Act for avoiding and putting an end "to certain doubts and questions relating to the attestation of wills and codicils "concerning real estates in that part of Great Britain called England, and in His "Majesty's colonies and plantations in America," except so far as relates to His Majesty's colonies and plantations in America, and also an Act passed in the Parliament of Ireland in the same twenty-fifth year of the reign of King George the Second, intituled "An Act for the avoiding and putting an end to "certain doubts and questions relating to the attestations of wills and codicils "concerning real estates;" shall from the passing of this Act cease to have effect in the territories of the East India Company, except so far as the same Acts or any of them respectively relate to any wills or estates *pur autre vie* to which this Act does not extend.

III. And it is hereby enacted, that this Act shall only extend to the wills of persons whose personal property cannot by the Law of England pass to their representatives without Probate or Letters of Administration obtained in one of Her Majesty's Supreme Courts of Judicature, and that the Statutes and parts

of

of Statutes aforesaid are only repealed as far as they relate to the succession to the property of such persons.

IV. And it is hereby enacted, that it shall be lawful for every person to devise, bequeath or dispose of by his will executed in manner hereinafter required, all real estate and all personal estate which he shall be entitled to, either at Law or in Equity, at the time of his death, and which, if not so devised, bequeathed or disposed of, would devolve upon the heir at law of him, or, if he became entitled by descent, of his ancestor, or upon his executor or administrator, and that the power hereby given shall extend to all estates *pur autre vie*, whether there shall or shall not be any special occupant thereof, and whether the same shall be a corporeal or an incorporeal hereditament, and whether the same shall be freehold or of any other tenure, and also to all contingent, executory or other future interests in any real or personal estate, whether the testator may or may not be ascertained as the person or one of the persons in whom the same respectively may become vested, and whether he may be entitled thereto under the instrument by which the same respectively were created; or under any disposition thereof by deed or will; and also to all rights of entry for conditions broken, and other rights of entry, and also to such of the same estates, interests, and rights respectively, and other real and personal estate as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will.

V. And it is hereby enacted, that no will made by any person under the age of twenty-one years shall be valid.

VI. Provided also, and it is hereby enacted, that no will made by any married woman shall be valid, except such a will as might have been made by a married woman before the passing of this Act.

VII. And

VII. And it is hereby enacted, that no will shall be valid unless it shall be in writing and executed in manner hereinafter mentioned; (that is to say) it shall be signed at the foot or end thereof by the testator or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary.

VIII. And it is hereby enacted, that no appointment made by will in exercise of any power, shall be valid, unless the same be executed in manner hereinbefore required; and every will executed in manner hereinbefore required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding that it shall have been expressly required that a will made in exercise of such power should be executed with some additional or other form of execution or solemnity.

IX. And it is hereby enacted, that every will executed in manner hereinbefore required shall be valid without any other publication thereof.

X. And it is hereby enacted, that if any person who shall attest the execution of a will, shall at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid.

XI. And it is hereby enacted, that if any person shall attest the execution of any will, to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift or appointment of or effecting any real or personal estate (other than and except charges and directions for the payment of any debt or

debts)

debts) shall be thereby given or made, such devise, legacy, estate, interest, gift or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift or appointment mentioned in such will.

XII. And it is hereby enacted, that in case by any will any real or personal estate shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor, whose debt is so charged shall attest the execution of such will, such creditor, notwithstanding such charge, shall be admitted a witness to prove the execution of such will, or to prove the validity or invalidity thereof.

XIII. And it is hereby enacted, that no person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof.

XIV. And it is hereby enacted, that every will made by a man or woman shall be revoked by his or her marriage (except a will made in exercise of a power of appointment, when the real or personal estate thereby appointed would not in default of such appointment pass to his or her heir, executor or administrator, or the person entitled as his or her next of kin, under the Statute of Distributions).

XV. And it is hereby enacted, that no will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

XVI. And

XVI. And it is hereby enacted, that no will or codicil, or any part thereof shall be revoked otherwise than as aforesaid, or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same.

XVII. And it is hereby enacted, that no obliteration, interlineation or other alteration made in any will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the will before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses be made in the margin or some other part of the will opposite or near to such alteration, or at the foot or end of or opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will.

XVIII. And it is hereby enacted, that no will or codicil, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in a manner hereinbefore required, and shewing an intention to revive the same, and when any will or codicil which shall be partly revoked and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary be shown.

XIX. And

XIX. And it is hereby enacted, that no conveyance or other act made or done subsequently to the execution of a will of, or relating to any real or personal estate therein comprised, except an act by which such will shall be revoked as aforesaid shall prevent the operation of the will with respect to such estate or interest in such real or personal estate as the testator shall have power to dispose of by will at the time of his death.

XX. And it is hereby enacted, that every will shall be construed, with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator unless a contrary intention shall appear by the will.

XXI. And it is hereby enacted, that unless a contrary intention shall appear by the will such real estate and interest therein as shall be comprised or intended to be comprised in any devise in such will contained, which shall fail or be void by reason of the death of the devisee in the life time of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect shall be included in the residuary devise (if any) contained in such will.

XXII. And it is hereby enacted, that a general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description shall extend (as the case may be) which he may have power to appoint in any manner he may think proper and shall operate as an execution of such power, unless a contrary intention shall appear by the will, and in like manner a bequest of the personal estate of the testator or any

bequest

bequest of personal estate described in a general manner shall be construed to include any personal estate, or any personal estate to which such description shall extend (as the case may be) which he may have power to appoint in any manner he may think proper and shall operate as an execution of such power, unless a contrary intention shall appear by the will.

XXIII. And it is hereby enacted, that where any real estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a contrary intention shall appear by the will.

XXIV. And it is hereby enacted, that in any devise or bequest of real or personal estate the words "die without issue," or "die without leaving issue," or any other words which may import either a want or failure of issue of any person in his life time or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the life time or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the will, by reason of such person having a prior estate tail, or of a preceding gift being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise; Provided, that this Act shall not extend to cases where such words as aforesaid import, if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue.

XXV. And it is hereby enacted, that where any real estate shall be devised to any trustee or executor, such devise shall be construed to pass the fee

simple

simple or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a definite term of years, absolute or determinable or an estate of freehold, shall thereby be given to him expressly or by implication.

XXVI. And it is hereby enacted, that where any real estate shall be devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof shall not be given to any person for life, or such beneficial interest shall be given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall be construed to vest in such trustee the fee simple, or other the whole legal estate which the testator had power to dispose of by will in such real estate and not an estate determinable when the purposes of the trust shall be satisfied.

XXVII. And it is hereby enacted, that where any person to whom any real estate shall be devised for an estate tail, or an estate in quasi entail, shall die in the life time of the testator, leaving issue who would be inheritable under such entail, and any such issue shall be living at the time of the death of the testator, such devise shall not lapse, bu[illegible]fect as if the death of such person had happened immediately [illegible]h of the testator, unless a contrary intention shall appear by the [illegible]

XXVIII. And it is hereby enacted, that where any person being a child or other issue of the testator to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the life time of the testator leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such

such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

XXIX. And it is hereby enacted, that notwithstanding any thing in this Act contained, any Soldier being in actual Military Service, or any Mariner or Seaman being at sea, may dispose of his personal estate as he might have done before the making of this Act.

XXX. And it is hereby enacted, that nothing in this Act contained shall be construed to repeal the provisions of Act No. XX. of 1837, whereby immoveable property situate within the jurisdiction of the Court of Judicature of Prince of Wales' Island, Singapore and Malacca transmitted by the last will of any person having a beneficial interest in the same is taken to be and to have been of the nature of chattels real and not of freehold as regards such transmission, provided that such will shall be executed and construed as a will of chattels real is to be executed and construed by virtue of this Act.

XXXI. And it is hereby enacted, that this Act shall not extend to any will made before the First day of February, in the year of our Lord 1839, and that every will re-executed or re-published or revived by any codicil shall for the purposes of this Act be deemed to have been made at the time at which the same shall be so re-executed, re-published, or revived; and that this Act shall not extend to any estate *pur autre vie* of any person who shall die before the First day of February in the year of our Lord 1839.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXVII. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 22d October, 1838.

I. IT is hereby enacted, that so much of Clause 1, Section XVIII. Regulation V. of 1831 of the Bengal Code, as provides that no suit be referred to a Principal Sudder Ameen in which the Vakeels or Officers of his Court shall be a party, is hereby repealed.

II. And it is hereby enacted, that in cases where, by reason of the above Clause, a suit cannot be referred to a Sudder Ameen, because he himself or his relatives or dependents are a party to the suit, and where the Zillah and City Judges cannot refer such suit to be tried by any other competent authority, it shall be lawful for each of the Courts of Sudder Dewanny Adawlut within the Territories subject to the Presidency of Fort William in Bengal to direct, by an order authenticated by the official signature of their Register, that the cognizance of such suit shall be transferred to any other Zillah or City Court subordinate to the same Court of Sudder Dewanny Adawlut—and the Judge of such other Zillah or City Court may thereupon refer such suit in the same manner as if the same had been originally instituted in the Court of such other Zillah or City.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXVIII. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 5th November, 1838.

IT is hereby enacted, that where any person or persons shall be convicted at any Sessions of Oyer and Terminer or Gaol Delivery, that shall be holden for any of the Presidencies of Fort William, Fort St. George, the Presidency or Island of Bombay, or for Prince of Wales' Island, Singapore, or Malacca, of the crime of Perjury, it shall be lawful for the Court, before which any person shall be so convicted, to order and adjudge such person to be transported to such place as the Court shall direct for life or for any term of years, or to be imprisoned for any term not exceeding four years with or without hard labour and with solitary confinement for such portion or portions of the said term as such Court shall think fit, not exceeding one month at a time or three months within the period of one year. Provided, that it shall not be lawful for any such Court to order the transportation of any person, being a native of the East Indies and not born of European parents, to the Eastern Coast of New South Wales or any of the Islands adjacent thereto.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXIX. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 12th November, 1838.

IT is hereby enacted, that from the First day of December 1838, Sections LIX., LX. and LXI. Regulation X. 1819, of the Bengal Code, shall be repealed.

II. And it is hereby enacted, that when information shall be given to any Salt Agent or Superintendent of Salt Chokies that contraband Salt is stored in any warehouse, dwelling house, or other place situated in the tract of country in Bengal or Orissa within which the transportation of Salt without Ruwana is not lawful, and such Salt Agent or Superintendent of Salt Chokies shall deem the information credible and desire to act thereupon, he shall require the same to be given to him in writing, or shall take the deposition of the informant, as may be most convenient, so that the following particulars shall be placed on record in his office—First, the name profession and place of residence of the informant. Second, the place, that is, the name of the town or village, and description of the house, warehouse or other place where the Salt may be stated to be in store. Thirdly, the name of the person to whom the house, warehouse, or other place belongs, or on account of, or by whom the Salt is there stored. Fourthly, the quantity and description of the Salt, and the grounds for believing the same to be contraband.

III. And

III. And it is hereby enacted, that if the contraband Salt so stated to be in store exceed in quantity one maund or Indian mun, it shall be liable to seizure in manner following, that is to say, the Salt Agent or Superintendent of Chokies, having before him the written statement or deposition of an informer, given in or taken down as above prescribed, shall, provided the place of such store be not too distant, proceed in person, together with the informant, summoning by written notice the nearest Police Darogha or other Officer in charge of the Police Thana or Station to attend likewise, and witness the proceeding.

IV. And it is hereby enacted, that for the purpose of making seizure of Salt in store so informed against, it shall be competent to any Salt Agent or Superintendent, having a Police Officer in company, to break open the door of the house, warehouse or other place in which the Salt may be stated to be stored, if, upon requisition duly made, the door be not immediately opened by the owner or occupant thereof.

V. And it is hereby enacted, that if the Salt Agent or Superintendent shall not be able to proceed in person to make a seizure of Salt in manner above provided, he shall send along with the informer, one or more confidential Officers of his public establishment, not being under the rank of a Jemadar of Peons, giving to such Officer or Officers his warrant ordering and authorizing the seizure, and sending notice as above prescribed for the Police Darogha or other Police Officer to attend, and the Officer so deputed shall have power to act in like manner as is provided for the Agent or Superintendent in person; provided that the door of no house, warehouse or other place, shall be broken open to make a seizure of Salt except in the presence of a Salt Agent or Superintendent of Chokies, or of an Officer so specially deputed, and of an Officer of Police.

VI. And

VI. And it is hereby enacted, that it shall be competent to the Head Officer of any Salt Chokee or Aurung for the manufacture of Salt, and for any Assistant to a Salt Agent or Superintendent, to receive information of Salt exceeding one maund in quantity being in store in a house, warehouse or other place in the manner prescribed in Section II. and to act thereupon as provided in Sections III. and IV. of this Act for the Salt Agent and Superintendent, provided that the place of store described in such information be situated at a distance of more than three kos from the station of a Salt Agent or Superintendent of Chokies, or from the place where the Salt Agent or Superintendent may be.

VII. And it is hereby enacted, that if the Darogha or person in charge of any Police Thana or Station, receiving notice to attend at a seizure of Salt in store as is above prescribed, shall not attend, or attending shall refuse to act in aid of the seizure, or shall in any way wilfully frustrate the object of the search and seizure, such Darogha or other Officer shall, on representation of the facts by the Officers of the Salt Department, and on conviction of the same before the Magistrate of the District, besides being dismissed from office, be liable to a fine equal to the amount of fine that would have been leviable on the owners of the Salt, if it had been seized according to the information laid.

VIII. And it is hereby enacted, that whenever it shall be necessary to break open any house, warehouse or other place to effect a seizure of Salt the rules and precautions prescribed in Regulation XX. of 1817 and Section X. Regulation VII. of 1799 of the Bengal Code, for breaking into a house for execution of process of distraint, shall always be observed by the Police Officers in attendance; provided however that the responsibility for the act, and the determination whether to require the door to be broken open or not shall rest with the Officers of the Salt Department only.

IX. And

IX. And it is hereby enacted, that whenever a seizure of Salt in store in any house, warehouse or other place shall be made by a Salt Agent or Superintendent of Chokies, the circumstances which attended the seizure shall be recorded in an official proceeding to be placed on record in the office.

X. And it is hereby enacted, that if the seizure be made by an Officer of the Salt Department, other than an Agent or Superintendent of Chokies, such Officer shall report the circumstances within twenty-four hours to his official Superior; and the Police Officer in attendance shall likewise report the occurrences at the time of seizure to his Official Superior.

XI. And it is hereby enacted, that no Salt found in store in any house or warehouse shall be deemed to be contraband, or shall be liable to seizure, unless, when the search is made, there shall be found more thereof than one maund or Indian mun, and the owner or person in charge shall be unable to account satisfactorily for the manner of its being in his possession.

XII. And it is hereby enacted, that whenever Salt shall be seized as contraband, because unaccompanied by any Ruwana or other protecting document, the person or persons conveying, or having in charge the same shall be apprehended; and all Officers who are empowered to seize [illegible]er the provisions of Regulation X. 1819 of the Bengal Code, shall likewise be competent to arrest the parties found with or having the Salt in possession.

XIII. And it is hereby enacted, that it shall be lawful for the Salt Agents and Superintendents of Chokies and other Officers who may be duly empowered to seize Salt, to stop and search any boats or vessels of a build adapted for sea navigation, that may be found within the limits described in Section XXXIII. of this Act; and if Salt shall be found thereon, not accompanied by

by the necessary Ruwana or other protecting document, to detain the vessel with the crew thereof, and to take them for adjudication of the case to the nearest accessible station of an Officer empowered to adjudicate cases of contravention of the Salt Law.

XIV. And it is hereby enacted, in modification of Section XXXVI. Regulation X. of 1819 of the Bengal Code, that if any person shall be found in the act of conveying Salt without Ruwana, or other protecting document, exceeding in quantity five seers of 80 tolahs to the seer, within the tract of country in Bengal or Orissa wherein the transportation of Salt is prohibited unless so protected, or if several persons be found carrying Salt so unprotected, in gangs or companies, which Salt shall exceed in the whole quantity five seers for each person in such gang or company, every such person shall be subject to the penalties prescribed by Regulation X. of 1819 aforesaid, and by this Act, for the illegal possession and transportation of Salt.

XV. And it is hereby enacted, in modification of Section CXXI. of Regulation X. 1819 aforesaid, that any person or persons, who may be convicted of smuggling Salt without Ruwana singly or in gang, and sentenced to pay a fine to Government on account of Salt so smuggled or attempted to be smuggled, shall, if the fine be not paid, be liable to imprisonment in the Criminal or Foujdaree jail, for a period not exceeding six months in commutation of such fine.

XVI. And it is hereby enacted, in further modification of Section CXXI. of Regulation X. 1819 aforesaid, that any person, who may be sentenced under Sections XXXI., LXVIII. and LXX. of the said Regulation, to imprisonment in addition to fine, for the offences described in those Sections respectively, shall in like manner be liable, as above provided for persons convicted of gang smuggling,

smuggling, to undergo such punishment in the Foujdaree jail: and cases of the kind described in the said Sections shall be adjudicated, in like manner as cases in which fine only is adjudged: and the warrant of the Officer adjudicating any case under this or the preceding Section of this Act, shall be authority for the Magistrate, or other person in charge of the Foujdaree jail, to hold the person described therein in confinement in such jail, as may be specified and required in the said warrant.

XVII. And it is hereby enacted, that when any person shall be convicted of gang smuggling, or of any of the offences described in Sections XXXI. and LXX. of Regulation X. of 1819 aforesaid, after having been previously convicted of a like offence, he shall be sentenced, in addition to the penalty attaching to such offence, to imprisonment in the Foujdaree jail for a period of six months, and a like punishment of six months imprisonment shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

XVIII. And it is hereby enacted, that it shall be lawful for any Salt Agent to proceed for the recovery of any balance that may be due to Government within the year, upon any contract made for the manufacture of Salt in the limits of his Agency, by the process of distraint; and for the demand and levy of the same, to exercise the powers vested by the Regulations and Acts of the Government in zemindars and sudder farmers, being subject to like restrictions, and with the like remedies to any parties aggrieved thereby.

XIX. And it is hereby enacted, that if any person shall by threats or by violence prevent the lawful arrest of any person by an Officer duly authorized to seize Salt, or shall procure his release after arrest, or if the party found with the Salt in possession, or any other persons resist any such Officers, they shall severally

severally and respectively be liable to the punishment prescribed in Section LVI. of Regulation X. 1819 of the Bengal Code.

XX. And it is hereby enacted, that if any Officer making an arrest upon account of Salt smuggling shall neglect to carry the person arrested to the proper Officer of the Salt Department, or shall delay to report the arrest to his superior, or shall release or connive at the escape of the person arrested, every such Officer shall, on conviction of any one of the above offences, besides dismissal from office, be liable to be sentenced for the same to a fine not exceeding 200 Rupees, and to imprisonment not exceeding three months; and the sentence may be adjudged by any Officer competent to adjudicate a forfeiture of contraband Salt, and, in case of non-payment of the fine, to a further imprisonment not exceeding three months, at the discretion of the Officer deciding the case.

XXI. And it is hereby enacted, that whenever any person may be arrested by an Officer of the Salt Department, or by any other Officer of other Departments duly empowered to make a seizure of Salt, the person making the arrest shall be bound to carry the party arrested direct to the Officer of the Salt Department who may be competent to try the case; and no person so arrested shall be released, until the case shall have been brought to judgment in the manner provided by Law.

XXII. And it is hereby enacted, that if any Officer of the Salt Department be convicted before the Magistrate of any District, of having vexatiously and unnecessarily seized the goods of any person on the pretence of seizing or searching for Salt, or of having vexatiously and unnecessarily arrested any person, or of having stopped and detained any boat unnecessarily and without authority, or of having detained any boat longer than is necessary for the

purpose

purpose of search, every such Officer shall, besides dismissal, be punished with imprisonment not exceeding six months, and with fine not exceeding 200 Rupees, commutable, if not paid, to a further imprisonment not exceeding six months.

XXIII. And it is hereby enacted, in modification of Section CXXII. Regulation X. of 1819 aforesaid, that if any person shall wilfully and maliciously give false information in respect to there being illicit Salt in store in any house or warehouse, and so procured that such house or warehouse shall be searched to the injury or vexation of the owners thereof, or of any other person or persons whatsoever, such false informer shall, on conviction of the offence before any Magistrate, be liable to imprisonment for two years, and to fine not exceeding 500 Rupees, at the discretion of any Magistrate by whom the case may be tried, and in case of the non-payment of the fine, to imprisonment for a further period of six months.

XXIV. And it is hereby enacted, that when parties shall be convicted of the illegal possession or transportation of Salt, and shall be liable to the penalty of five Rupees per maund as prescribed in Section XXXVI. Regulation X. of 1819 of the Bengal Code, the fine shall be at the said rate according to the quantity of Salt seized, whether less or more than one maund, and each one of the smugglers in company, or parties to the fraud on the Revenue, shall be liable to the whole fine.

XXV. And it is hereby enacted, that it shall be competent to the Governor or Deputy Governor of Bengal to vest with the power of adjudicating cases of contravention of the Laws for protection of the Revenue derived from Salt, any Assistant to a Salt Agent, or Uncovenanted Superintendent of Salt Chokies, who may seem to him qualified; and such Officers, when invested with

with such powers, shall exercise them subject to the same rules and restrictions as Covenanted Salt Agents and Superintendents of Chokies; provided that no Officer adjudicating cases of contravention of the Salt Revenue Laws shall receive any part of the rewards that may be decreed or otherwise benefit directly by the adjudication of such cases.

XXVI. And it is hereby enacted, that cases arising out of this Act shall be tried in the same manner as is prescribed in Regulation X. of 1819 of the Bengal Code for other cases of contravention of the Laws for the protection of the Revenue derived from Salt; and the Officer adjudicating the case shall be guided by the provisions of Sections C. to CXVI. of that Regulation; and the Judge of the City or Zillah shall be bound to proceed in respect to persons sentenced to any fine or other penalty under the provisions of this Act, in the same manner, subject to, the modifications and additions hereinafter provided, as is prescribed in respect to persons convicted of the offences and tried before the authorities specified and provided by the said Regulation.

XXVII. And it is hereby enacted in modification of Clauses XXXII. and XXXIII. of Regulation X. 1819 of the Bengal Code, that it shall be the duty of every party under direct engagements with Government for the Land Revenue, either as a proprietor or farmer, and of every proprietor of lakhiraj lands upon whose zemindaree, farm or lakhiraj estate there shall be any works producing Salt, otherwise than under contract with a Salt Agent or on account of Government, to give notice of the same in writing to the nearest public Officer of Police or Land Revenue or of the Salt Department, within ten days from the date on which the works were first prepared; and in like manner it shall be the duty of every person employed in the collection of the Land Revenue of any Muhal on the part of Government, or of the Court of Wards, or of joint proprietors, to give like notice in respect to Salt manufactured on the

the lands under their management; and every such proprietor, farmer, proprietor of lakhiraj estate or manager, who shall knowingly omit to give such notice, shall be liable on conviction before the Judge of any Zillah or City to a fine of 500 Rupees, for every Khalaree or Salt Work established on his lands; and such knowledge shall not be required to be established by direct proof, but may be inferred from circumstances at the discretion of the Judge deciding the case; and any fine that may be adjudged under this Section shall be recoverable by distress and sale of the goods and chattles of the offender, or by process of execution taken out by any Salt Agent or Superintendent of Chokies in the manner provided for decrees of the Civil Courts.

XXVIII. And it is hereby enacted, in modification of Section LXIV. Regulation X. of 1819 aforesaid, and in addition thereto, that when there may be no direct proof of the unauthorized removal of Salt from any golah or place of Government store, sufficient to convict the parties concerned therein of theft within the provisions of the said Section, the Officer or Officers who may have been entrusted with the charge of such golah, or place of Government store, shall nevertheless be liable for the offence of embezzling the Salt of any store in their custody the outturn of which shall, according to the accounts kept of receipts and deliveries, exhibit a deficiency for which he or they may not duly account. And the Officer in charge of any golah or Salt store shall in like manner be deemed guilty of embezzlement if he has made away with, or shall not produce the true account of such store; and any person against whom the offence of embezzlement shall be established under this Section, shall be liable, on conviction before the Magistrate of the City or District, to be punished by fine and imprisonment under the general powers vested in the Zillah and City Magistrates.

XXIX. And it is hereby enacted, in addition to the Rules contained in Sections CXI., CXII. and CXIII. of Regulation X. 1819 of the Bengal Code, for

for the adjudication of cases of contravention of the Laws enacted for the protection of the Revenue derived from Salt, that if the attendance of the parties charged with such offences cannot be obtained by reason of their failure to attend in person or by vakeel, after being served with a summons, or by reason of their evading process, the Officer adjudicating any such case shall issue notice for the attendance of the parties accused in the manner prescribed in Section CII. of the said Regulation; and if the parties do not attend in person or by vakeel within the time fixed by such notice, the Officer adjudicating the case shall pass judgment thereon, under the said last mentioned Section, in like manner as if the parties accused were present; and the Officer so adjudicating any case exparte, may, at any time after such judgment, issue his warrant for the apprehension of the persons convicted for execution of the sentence, in the manner provided in Regulation X. of 1819 of the Bengal Code, and in this Act, for cases in which the parties were present; and further may at any time sue out process for levying the amount of fine adjudged, from any Civil Court competent to execute its own decrees in the manner and form prescribed for the execution of the decrees of such Civil Court under Section XXX. of this Act.

XXX. And it is hereby enacted, that when the Officer holding proceeding in any case exparte, as above provided, shall refer the case to the Judge of any City or Zillah, in consequence of the amount of fine being such as the said Officer is not competent finally to adjudge, the Judge of the City or Zillah, to whom such case may be referred, shall issue such orders and institute such proceedings as are authorized by Sections CXI. to CXIII. of Regulation X. of 1819 of the Bengal Code, in like manner as if the offenders were sent over with the case or were present to be heard in their defence; and whenever any fine may be adjudged by the Zillah or City Judge, the same may be levied on the application of the Salt Agent or Superintendent of Salt Chokies under the rules in force for the execution of the decrees of Civil Courts.

XXXI.

XXXI. And it is hereby enacted, in modification of the Rules contained in Sections CIX. and CXII. of Regulation X. of 1819 of the Bengal Code, whereby the power of final adjudication by Salt Agents or Superintendents of Chokies, in cases of the contravention of the laws enacted for the protection of the Salt Revenue, is restricted to cases in which the quantity of Salt proposed to be confiscated shall not exceed twenty maunds or the fine adjudicated shall not exceed 50 Rupees, that the judgment of any Salt Agent or Superintendent of Chokies, or of any other Officer vested by Government with like jurisdiction in such cases, shall be final in all cases wherein the Salt adjudged to be confiscated shall not exceed eighty maunds, and the fine imposed upon the defendant, or any one of several defendants, shall not exceed 400 Rupees. Provided however that every such judgment may under Section CXVII. of the said Regulation be brought by petition before the Board of Customs, Salt and Opium, and be reversed or amended by that authority.

XXXII. And it is hereby enacted, in modification of Section CXIV. Regulation X. 1819 of the Bengal Code, that the Zillah and City Judges shall pass final judgment in all cases referred to them for adjudication when the quantity of Salt to be confiscated shall exceed eighty maunds, or the fine imposed shall exceed 400 Rupees; provided however that there shall in all such cases be an appeal open to the Sudder Dewany Adawlut, under the Rules for the admission of special appeals in that Court, upon any point of law which may be ruled by a Zillah or City Judge in any such judgment.

XXXIII. And it is hereby enacted, that the penalties of this Act shall take effect only within the tract of Country guarded by Salt Chokies in the manner prescribed in Section XXXVI. of Regulation X. 1819 of the Bengal Code, and within which the transportation of Salt, not belonging to Government, without a Ruwana, or Special Pass from the Board of Customs, Salt and Opium,

Opium, is not lawful; and it is hereby declared that such tract shall not extend, within the Delta of the Ganges and Megna Rivers, beyond the line of the reach of the tides in the Rivers communicating with the Bay of Bengal as taken at spring tides in the dry season; nor, eastward of the Megna, north of the River Goomtee; nor, westward of the River Hooghly, beyond a line drawn from a point on that River distant one mile from the northern end of the town of Nyasurai, and to the north thereof, to a like point distant one mile to the north of the town of Guttaul, and thence to a like point distant one mile to the north of the town of Midnapore, and thence to a like point distant one mile to the north of Huldipookur in Singbhoom, so as to include each of those towns repectively.

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ACT No. XXX. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 19th November, 1838.

I. IT is hereby enacted, that Sections II. and XIV. Regulation XXXVI. 1793, the Provisions of which were extended by Regulation XXVIII. of 1795, Regulation XVII. of 1803, Section XVII. Regulation VIII. of 1805, and Section XXXII. Regulation XII. of 1805, Section IV., and Clauses 2 and 3, Section VI. Regulation XX. 1812, and Section II. Regulation IV. of 1824, of the Bengal Code, be modified.

II. And it is hereby enacted, that in addition to the Offices to which those Sections relate, Offices for the Registry of Deeds may be established at any Civil Stations, and may be placed by the Orders of Government under the superintendence of any Officers resident at such Stations whom Government may nominate for that purpose.

III. And it is hereby enacted, that the registration of Deeds at any Office of Registry authorized by this Act shall be subject to the payment of the same fees as are prescribed in Section XIV. Regulation XXXVI. 1793, for Deeds registered at an Office established at the Station of a Zillah or City Court.

IV. And

IV. And it is hereby enacted, that Section XV. Regulation XXXVI. 1793, and Clauses 2 and 3, Section VI. Regulation XX. 1812 of the Bengal Code, shall not be held applicable to offices and persons established and appointed for the registry of Deeds under this Act.

V. And it is hereby enacted, that persons desirous of registering Deeds written in any European language at any Office of Registry in the Territories subject to the Presidency of Bengal, shall be required to pay for transcribing the same according to the established rates of Section Writing, in addition to the fees prescribed by Section XIV. Regulation XXXVI. 1793.

VI. And it is hereby enacted, that in case of the death or absence on leave of any person appointed by Government to register Deeds under this Act, it shall be lawful for the Zillah Judge or other Officer specially authorized by Government, to appoint any person whom he may think proper to take temporary charge of the Office and to register Deeds in the same manner as if such person had been appointed to the Office by the Orders of Government.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXXI. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 3d December, 1838.

I. IT is hereby enacted, that so much of a Statute made and passed in the 9th year of the reign of His late Majesty King George the Fourth, entitled an Act for improving the administration of Criminal justice in the East Indies, as relates to any person who unlawfully and maliciously shall administer or attempt to administer to any person, or shall cause to be taken by any person, any poison or other destructive thing, or shall unlawfully and maliciously attempt to drown, suffocate, or strangle any person, or shall unlawfully and maliciously shoot at any person, or shall by drawing a trigger or in any other manner attempt to discharge any kind of loaded arms at any person, or shall unlawfully and maliciously stab, cut or wound any person, with intent in any of the cases aforesaid to murder such person; and so much of the said Act as relates to any person who shall unlawfully and maliciously shoot at any person, or shall by drawing a trigger or in any other manner attempt to discharge any kind of loaded arms at any person, or shall unlawfully and maliciously stab, cut or wound any person, with intent in any of the cases aforesaid to maim, disfigure, or disable such person, or to do some other grievous bodily harm to such person, or with intent to resist or prevent the lawful apprehension or detainer of the party so offending, or of any of his accomplices for any offence for which he or they

they may respectively be liable by law to be apprehended or detained; and so much of the said Act as relates to any person who, with intent to procure the miscarriage of any woman, then being quick with child, unlawfully and maliciously shall administer to her or cause to be taken by her any poison or other noxious thing, or shall use any instrument or other means whatsoever with the like intent; and who with intent to procure the miscarriage of any woman, not being or not being proved to be then quick with child, unlawfully and maliciously shall administer to her, or cause to be taken by her, any medicine or other thing, or shall use any instrument or other means whatever with the like intent; and so much of the said Act as relates to any person who shall rob any other person of any chattel, money, or valuable security; and so much of the said Act as relates to any person who shall accuse or threaten to accuse any other person of any infamous crime, with a view or intent to extort or gain from him, and shall by intimidating him by such accusation or threat extort or gain from him any chattel, money or valuable security; and so much of the said Act as relates to any person who shall steal from the person of another, or shall assault any other person with intent to rob him, or shall by menaces or by force demand property of any other person with intent to steal the same; and so much of the said Act as relates to any person who shall be convicted of burglary; and so much of the said Act as relates to any person who shall break and enter any dwelling house and steal therein any chattel, money or valuable security to any value whatever, or shall steal any such property to any value whatever in any dwelling house, any person therein being put in fear, or shall steal in any dwelling house any chattel, money or valuable security to the value in the whole of Fifty Company's Rupees or more; and so much of the said Act as relates to any person who shall plunder and steal any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel; and so much of the said Act as relates to any person who

shall

shall unlawfully and maliciously set fire to any church or chapel, or other public place of religious worship whatsoever, or shall unlawfully and maliciously set fire to any house, stable, coach-house, out-house, ware-house, office, shop, mill, barn, or granary, or to any building or erection used in carrying on any trade or manufacture or any branch thereof, whether the same or any of them respectively shall then be in the possession of the offender or in the possession of any other person, with intent thereby to injure or defraud any person; and so much of the said Act as relates to any person who shall unlawfully and maliciously set fire to, or in any wise destroy, any ship or vessel, whether the same be complete, or in an unfinished state, or shall unlawfully and maliciously set fire to any goods being on board any ship or vessel as cargo, with intent to destroy such cargo or ship, and with intent thereby to prejudice any owner or part owner of such ship or vessel, or any owner or part owner of any goods on board the same, or any person that hath underwritten, or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same; and so much of the said Act as relates to any person who shall exhibit any false light or signal with intent to bring any ship or vessel into danger, or shall unlawfully and maliciously do any thing tending to the immediate loss or destruction of any ship or vessel in distress, or destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize or articles of any kind belonging to such ship or vessel, or shall by force prevent or impede any person endeavouring to save his life from such ship or vessel (whether he shall be on board or shall have quitted the same); and so much of the said Act as relates to any person who shall unlawfully and maliciously set fire to any stack of rice, corn, or other grain or pulse, or sugar cane, whether standing or cut down, or to any part of a wood, coppice or plantation of trees or valuable plants, or to any grass, fern, or other like ground produce, wheresoever the same may be growing; and so much of the said Act as relates to the punishment of principals in the second degree, and of

accessaries

accessaries before and after the fact respectively to such of the felonies punishable under those Acts as are hereinbefore referred to, shall, from the time of passing this Act, cease to have effect within the territories of the East India Company, except as to offences committed before or upon the day of passing this Act, which shall be dealt with and punished as if this Act had not been passed.

II. And it is hereby enacted, that this Act shall extend to all persons and over all places over whom or which the Criminal jurisdiction of any of Her Majesty's Courts of Justice within the territories under the Government of the East India Company extends, but not further or otherwise.

III. And it is hereby enacted, that whosoever shall administer to or cause to be taken by any person any poison or other destructive thing, or shall stab, cut, or wound any person, or shall by any means whatsoever cause to any person any bodily injury dangerous to life, with intent in any of the cases aforesaid to commit murder, shall be guilty of felony, and being convicted thereof shall suffer death.

IV. And it is hereby enacted, that whosoever shall attempt to administer to any person any poison or other destructive thing, or shall shoot at any person, or shall by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms at any person, or shall attempt to drown, suffocate, or strangle any person, with intent in any of the cases aforesaid to commit the crime of murder, shall, although no bodily injury shall be effected, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

V. And

V. And it is hereby enacted, that whosoever unlawfully and maliciously shall shoot at any person, or shall by drawing a trigger or in any other manner attempt to discharge any kind of loaded arms at any person, or shall stab, cut, or wound any person, with intent, in any of the cases aforesaid, to maim, disfigure, or disable such person, or to do some other grievous bodily harm to such person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

VI. And it is hereby enacted, that whosoever shall unlawfully and maliciously send or deliver to or cause to be taken or received by any person any explosive substance or any other dangerous or noxious thing, or shall cast or throw upon or otherwise apply to any person any corrosive fluid or other destructive matter, with intent in any of the cases aforesaid, to burn, maim, disfigure, or disable any person or to do some other grievous bodily harm to any person, and whereby, in any of the cases aforesaid, any person shall be burnt, maimed, disfigured, or disabled, or receive some other grievous bodily harm, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

VII. And it is hereby enacted, that whosoever with intent to procure the miscarriage of any woman shall unlawfully administer to her or cause to be taken by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever with the like intent, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court,

to

to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

VIII. And it is hereby enacted, that on the trial of any person for any of the offences hereinbefore mentioned, or for any felony whatever where the crime charged shall include an assault against the person, it shall be lawful for the jury to acquit of the felony and to find a verdict of guilty of assault against the person indicted, if the evidence shall warrant such finding, and when such verdict shall be found, the Court shall have power to imprison the person, so found guilty of an assault, for any term not exceeding four years.

IX. And it is hereby enacted, that whosoever shall burglariously break and enter into any dwelling house, and shall assault with intent to murder any person being therein, or shall stab, cut, wound, beat or strike any such person, shall be guilty of felony, and being convicted thereof shall suffer death.

X. And it is hereby enacted, that whosoever shall be convicted of the crime of burglary shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XI. Provided always, and it is hereby enacted, that so far as the same is essential to the offence of burglary, the night shall be considered, and is hereby declared to commence at nine of the clock in the evening, and to conclude at six of the clock in the morning of the next succeeding day.

XII. And it is hereby enacted, that whosoever shall steal any property in any dwelling house, and shall by any menace or threat put any one being therein in bodily fear, or shall steal in any dwelling house any property to the

value

value in the whole of Fifty Company's Rupees or more, or shall break and enter any dwelling house, and steal therein any property shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XIII. And it is hereby enacted, that whosoever shall rob any person, and at the time of or immediately before or immediately after such robbery shall stab, cut or wound any person, shall be guilty of felony, and being convicted thereof, shall suffer death.

XIV. And it is hereby enacted, that whosoever shall, being armed with any offensive weapon or instrument, rob or assault with intent to rob any person, or shall together with one or more person or persons rob or assault with intent to rob any person, or shall rob any person, and at the time of or immediately before or after such robbery shall beat, strike or use any other personal violence to any person shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XV. And it is hereby enacted, that whosoever shall accuse or threaten to accuse any person of the abominable crime of buggery committed either with mankind or with beast, or of any assault with intent to commit the said abominable crime, or of any attempt or endeavour to commit the said abominable crime, or of making or offering any solicitation, persuasion, promise, or threat to any person whereby to move or induce such person to commit or permit the said abominable crime, with a view or intent, in any of the cases aforesaid, to extort or gain from such person, and shall by intimidating

such

such person by such accusation or threat, extort or gain from such person any property, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XVI. And it is hereby enacted, that whosoever shall plunder or steal any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize or articles of any kind belonging to such ship or vessel, and be convicted thereof, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XVII. And it is hereby enacted, that whosoever shall rob any person, or shall steal any property from the person of another, shall be liable at the discretion of the Court, to be transported to such place as the Court shall direct, for any term not exceeding fifteen years, nor less than ten years, or to be imprisoned for any term not exceeding three years.

XVIII. And it is hereby enacted, that whosoever shall assault any person with intent to rob shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years.

XIX. And it is hereby enacted, that whosoever shall, with menaces or by force, demand any property of any person with intent to steal the same, shall be guilty of felony, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding three years.

XX. And it is hereby enacted, that whosoever shall unlawfully and maliciously

maliciously set fire to any dwelling house, any person being therein, shall be guilty of felony, and being convicted thereof shall suffer death.

XXI. And it is hereby enacted, that whosoever shall unlawfully and maliciously set fire to any church or chapel or other public place of religious worship whatsoever, or shall unlawfully and maliciously set fire to any house, stable, coach-house, out-house, ware-house, office, shop, mill, barn, or granary, or to any building or erection used in carrying on any trade or manufacture or any branch thereof, whether the same or any of them respectively shall then be in the possession of the offender or in the possession of any other person, with intent thereby to injure or defraud any person, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XXII. And it is hereby enacted, that whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel either with intent to murder any person, or whereby the life of any person shall be endangered, shall be guilty of felony, and being convicted thereof shall suffer death.

XXIII. And it is hereby enacted, that whosoever shall unlawfully exhibit any false light or signal with intent to bring any ship or vessel into danger, or shall unlawfully and maliciously do any thing tending to the immediate loss or destruction of any ship or vessel in distress shall be guilty of felony, and being convicted thereof shall suffer death.

XXIV. And it is hereby enacted, that whosoever shall unlawfully and maliciously set fire to or in anywise destroy any ship or vessel whether the same

be

be complete or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in any wise destroy any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that hath underwritten or shall underwrite any policy of insurance upon such ship or vessel or on the freight thereof or upon any goods on board the same, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XXV. And it is hereby enacted, that whosoever shall by force prevent or impede any person endeavouring to save his life from any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore (whether he shall be on board or shall have quitted the same) shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XXVI. And it is hereby enacted, that whosoever shall unlawfully and maliciously destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize or articles of any kind belonging to such ship or vessel, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XXVII. And it is hereby enacted, that whosoever shall unlawfully and maliciously set fire to any mine of coal shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported

to

to such place as the Court shall think fit for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XXVIII. And it is hereby enacted, that whosoever shall unlawfully and maliciously set fire to any stack of rice, corn or other grain, pulse, or sugar cane, straw, hay, or wood, or to any crop of rice, corn or other grain, or pulse or sugar cane, whether standing or cut down, or to any part of a wood, coppice or plantation of trees or valuable plants, or to any grass, fern, or other like ground produce, wheresoever the same may be growing, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall think fit for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

XXIX. And it is hereby enacted, that if any person shall steal the whole or any part of any growing tree, sapling or shrub, or any underwood, or of any pale, post or stile, or any growing cultivated plant, root, fruit, or vegetable production, or shall unlawfully and maliciously commit any damage, injury, or spoil to or upon any real or personal property whatsoever, either of a public or private nature, every such offender being convicted before a Magistrate or Justice of the Peace shall, for the first offence, forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding Fifty Rupees as to the Magistrate or Justice of the Peace shall seem meet; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, every such offender shall, for such second offence, be imprisoned with or without hard labor, for such term not exceeding six calendar months as the convicting Magistrate or Justice of the Peace shall think fit. Provided always that nothing in this Section contained concerning the stealing of any property or malicious damage, injury or spoil to or upon any real

real property of a private nature shall extend to the settlements of Prince of Wales' Island, Singapore, or Malacca.

XXX. And it is hereby enacted, that every sum of money which shall be forfeited for the amount of any injury done (such amount in each case to be assessed by the convicting Magistrate or Justice of the Peace) shall be paid to the party aggrieved, if known, except when such party shall have been examined in proof of the offence, and that in every case of a summary conviction under this Act, when the sum which shall be forfeited for the amount of the injury done, or which shall be imposed as a penalty by the Magistrate or Justice of the Peace shall not be paid, either immediately after the conviction or within such period as the Magistrate or Justice of the Peace shall at the time of conviction appoint, it shall be lawful for the convicting Magistrate or Justice of the Peace to commit the offender to the Common Gaol or House of Correction to be imprisoned only, or to be imprisoned with hard labor according to the discretion of the Magistrate or Justice of the Peace for any term not exceeding two calendar months, where the amount of the sum forfeited, or of the penalty imposed, or of both, (as the case may be) together with the costs shall not exceed Fifty Rupees, and for any term not exceeding four calendar months when the amount with costs shall not exceed One Hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

XXXI. Provided always, that where several persons shall join in the commission of the same offence, and shall, upon conviction thereof, each be adjudged to forfeit a sum equivalent to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved than that which shall be forfeited by one of such offenders only.

XXXII. And

XXXII. And it is hereby enacted, that in case any person convicted of any offence punishable upon summary conviction by virtue of this Act shall have paid the sum adjudged to be paid together with costs under such conviction, or shall have suffered the imprisonment awarded for non-payment thereof, every such person shall be released from all further or other proceedings for the same cause.

XXXIII. And it is hereby enacted, that every punishment and forfeiture by this Act imposed on any person maliciously committing any offence shall equally apply and be enforced whether the offence shall have been committed from malice conceived against the owner of the property in respect of which it shall be committed or otherwise.

XXXIV. And it is hereby enacted, that it shall not be necessary in any proceeding either for theft or for malicious injury, spoil, or damage, to or upon any property dedicated to public use or ornament, to allege the same to be the property of any person.

XXXV. And it is hereby enacted, that the word "property" shall throughout this Act be deemed to include every thing included under the words "chattel, money, or valuable security" in the said Statute made and passed in the ninth year of the reign of his late Majesty King George 4th aforesaid—and that the term dwelling house shall have the same construction as in the said Statute.

XXXVI. And it is hereby enacted, that in the case of every felony punishable under this Act, every principal in the second degree and every accessary before the fact shall be punishable with death or otherwise in the same manner as the principal in the first degree is by this Act punishable.

And

And every accessary after the fact to any felony punishable under this Act (except only a receiver of stolen property) shall on conviction, be liable to be imprisoned for any term not exceeding two years.

XXXVII. And it is hereby enacted, that where any person shall be convicted under this Act for any offence punishable under this Act for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned and kept to hard labor, and also to direct that the prisoner be kept in solitary confinement for such a period or periods of the imprisonment as to the Court in its discretion shall seem meet not exceeding one month at a time, or three months in any one year.

XXXVIII. And it is hereby enacted and provided that it shall not be lawful for any Court, under the authority of this Act, to order the transportation of any person being a native of the East Indies, and not born of European parents, to the Eastern Coast of New South Wales, or any of the Islands adjacent thereto.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by C. H. Huttmann.

ACT No. XXXII. OF 1838.

Passed by the Hon'ble the President of the Council of India in Council, on the 10th December, 1838.

I. IT is hereby enacted and declared, that all powers whatever in Criminal Cases, which by virtue of any law now in force may be exercised by two Justices of the Peace within and for the Provinces, Districts, and Countries of Bengal, Behar, and Orissa, and within and for the Presidency of Fort William in Bengal, and places thereto subordinate, may be exercised by one such Justice.

II. And it is hereby enacted, that it shall be lawful for any one such Justice to issue a Warrant of Distress for the recovery of arrears of Assessment accruing under the Act of Parliament 33 George III. Cap. 52, and every such Warrant shall have the same force as if it were under the hands and seals of two such Justices.

III. And it is hereby enacted and declared, that all such powers heretofore exercised, and Warrants issued by one such Justice of the Peace, shall be deemed legal and valid as if the same had been exercised or issued by two such Justices.

Calcutta: 1838.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

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TO THE

ACTS OF THE SUPREME GOVERNMENT

FOR 1838.

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„ Stock (Capital) of—may be increased by votes at two extraordinary General Meetings of the Proprietors, ...	„	XXXIII.	
„ „ No Proprietor bound to subscribe to the increased, ...	„	XXXIV.	
„ „ Increased—not subscribed for by Proprietors of the Original Stock to be sold for the benefit of the Association,..	„	„	
„ By a majority of votes shall every election and question at General Meetings of the Proprietors of—be decided,.....	„	XVII.	
„ No Proprietor of—shall be allowed to vote unless he be possessed of two or more shares of the Capital Stock,.....	„	„	
„ Votes of Shareholders, how regulated,	„	XVIII.	
„ Joint Votes of persons, partners in trade shall be received as votes of single Proprietors, ...	„	XIX.	
„ Warrant of Goods lodged in any Warehouse of—shall be given by its Secretary,..	„	XXVIII.	

	Act.	Section.	Clause.
Bonded Warehouse Association—Certificate signed by three Directors of—shall be delivered to every Proprietor of the Capital Stock,	V.	V.	
Bottellos—See Craft.			
Bullocks (Laden)—See Toll.			
Cargo Boats laden with Goods shall not make fast to or lie alongside of any Vessel unless Goods on such boats be covered with a Custom House pass,	I.	XXXVIII.	
Certificate to be produced shewing that Customs Duty has been paid,	,,	IX.	
,, of the payment of Customs Duties to be delivered to Chokee Officer in charge to entitle Goods to pass,	,,	X.	
,, of payment to be given to any Merchant, or other person on receipt of money as Customs Duty,	,,	XI.	
,, not to be received at any Chokee that shall bear date more than 30 days before the date when the Goods arrive at the Chokee,	,,	XII.	
,, Goods provided with a—shall be sent back, if not so provided, shall be detained and be liable to confiscation,	,,	XIII.	
,, of the Registry of Vessels at Bombay how sealed and signed,	XIX.	VIII.	
,, of ditto ditto when to be issued,	,,	IX.	
,, from the Marine Pay Master or Boat Master at Bombay shall not be required to enable any person to obtain a port clearance for Vessels at the Custom House of Bombay,	,,	XV.	
See Vessels.			
Changancherry—See Anjengo.			
Chapters I. II. IV. VI. VIII. and IX. of Regulation XX. of 1827, Bombay Code, with Appendices A. B. C. E. H. I. J. K. of that Regulation repealed,	I.	II.	
See Regulation.			
Charges on account of things done in contravention of this Act to be determined by the Magistrate or Joint Magistrate of any City or District,	II.	VI.	
Chokee—See Customs Chokees.			
Coins to be issued by authority of the Governor General in his executive capacity,	XXI.	I.	
,, Provisions of Act No. XVII. 1835 and No. XXXI. 1837, applicable to			

devices,

	Act.	Section	Clause.
devices, &c. of—issued by virtue of Act No. XVII. 1835 shall apply to the Coins which may be issued by virtue of this Act,	XXI.	II.	
Collector of Customs to fix a period, not being less than 20 days, when there shall be no Customs Officer aboard of Vessels discharging Cargo for the discharge thereof and clearance of the vessel inwards,.....	I.	XLV.	
„ or other principal Officer entrusted with the collection or management of the Revenues of Government of Bombay is authorized to require Security of one or more individuals in the form of Schedule A. of this Act,....	XVIII.	I.	
„ or other Officer may after Security has been given, demand fresh or additional Security, ...	„	III.	
Commission shall be appointed at Bombay to enquire into any charge of malversation against any public servant, ...	VI.		
Confiscation of Goods landed, or put on board without due entry of vessel,.....	I.	XXX.	
„ of ditto ditto at unauthorized places, ...	„	XXXII.	
„ of ditto found on unauthorized boats, ...	„	XXXIII.	
„ of ditto concealed on vessels and not duly accounted for, ...	„	XXXVI.	
„ of ditto on Cargo boats alongside of a vessel not having a Customs permit,..	„	XXXVIII.	
„ of ditto ditto not having a boat note,....	„	XXXIX.	
„ of ditto for Importation or Exportation by Sea if the Packages in which they may be contained shall be found not to correspond with the description of them given in the application, ...	„	XL.	
„ of ditto if removed after being landed or before they have passed through the Custom House, with a view of defrauding the Revenue,.....	„	XLI.	
„ of all Goods under this Act—The Collector of Customs competent to adjudge,.....	„	LVII.	
„ of Goods unduly severe, may be mitigated by the adjudicating Officer to the extent of the levy of double duty, ...	„	LIX.	
See Rewards.			

	Act.	Section.	Clause.
Confiscation of Salt produced at Salt works in the North West Provinces of which notice has not been given as prescribed in the 1st Section of this Act, ...	II.	IV.	
„ of Goods landed in any other than authorised Ports at Bombay,.....	I.	XXV.	
Courts, Revenue—to give immediate possession of all lands, premises, trees, &c. and of all profits arising from the same to parties dispossessed of them,.....	XVI.	I.	II.
„ Parties to whom possession is given by the—shall continue in possession until ejected by a decree of a Court of Sudder Adawlut, ...	„	„	„
„ shall continue to exercise the jurisdiction defined in Clauses 3, 4 and 5 of Section XXXI. Regulation XVII. of 1827 in the Bombay Code, ...	„	„	III.
See Appeals.			
Craft (Pattamars, Dhonies, Bottellas, &c.) from the Maldive and Laccadive Islands, or from the Native Ports of Kattywar, &c. shall be treated as Coasting Craft of the British Territory, ...	I.	LII.	
Credit to be given at Bombay for the sum that may be paid as duties on Goods at any Port not subject to the Presidency of Bombay, on such Goods being subsequently imported to Bombay, ...	„	XX.	
Criminal Act—Administering poison, stabbing, cutting, wounding and doing bodily injury dangerous to life, how punished, ...	XXXI.	III.	
„ Poisoning, shooting at any person, drawing a trigger, discharging loaded arms, attempting to drown, suffocate, strangle, with intent to murder,.....	„	IV.	
„ Maiming, disfiguring, or disabling any person resisting or preventing the lawful apprehension or detainer of any person, ...	„	V.	
„ Causing to be received or taken any explosive substance, casting upon any person any corrosive fluid,.....	„	VI.	
„ Causing the miscarriage of any woman,	„	VII.	
„ When any felonious crime shall include an assault against any person the Jury shall find a verdict of guilty of assault against the person indicted, ...	„	VIII.	

	Act.	Section.	Clause.
Criminal Act—Burglary or breaking into any house attended with murder, ...	XXXI.	IX.	
„ ditto how punished, ...	„	X.	
„ Burglary to commence at 9 o'clock in the evening and to conclude at 6 o'clock in the morning,.....	„	XI.	
„ Stealing property from a Dwelling House equal to or above the value of 50 Co.'s Rs. and putting people in bodily fear by menace or threat, ...	„	XII.	
„ Robbing, cutting, and wounding, ...	„	XIII.	
„ Robbing, assaulting, being armed with intent to rob, and beating, striking or using personal violence, ...	„	XIV.	
„ The crime of Buggary, ...	„	XV.	
„ Plundering or stealing any part of any ship or vessel in distress, or wrecked, stranded or cast on shore, or any Goods, Merchandize or Articles belonging to such ship or vessel, ...	„	XVI.	
„ Robbing any person, or stealing any property from the person of another,....	„	XVII.	
„ Assaulting any person with intent to rob, ...	„	XVIII.	
„ Demanding any property of any person with menaces or by force with intent to steal the same,.....	„	XIX.	
„ Setting fire to any Dwelling House any person being therein, ...	„	XX.	
„ Setting fire to Church, Chapel, House, Stable, Coach-house, Out-house, Warehouse, Office, Shop, Mill, Barn, &c. with intent to injure or defraud any person, ..	„	XXI.	
„ Setting fire to, casting away, or in any wise destroying any ship or vessel, with intent to murder any person,.	„	XXII.	
„ Exhibiting any false light or signal with intent to bring any ship or vessel into danger, ...	„	XXIII.	
„ Setting fire to or destroying any ship or vessel, or any Goods on board the same, or any person who hath under-written any Policy of insurance upon such ship or vessel, or upon the freight thereof, ...	„	XXIV.	
„ Preventing any person endeavouring to save his life from any ship or vessel in distress, wrecked, stranded or cast on shore,.....	„	XXV.	

	Act.	Section.	Clause.
Criminal Act—Destroying any part of any ship or vessel in distress, wrecked, stranded, or cast on shore, or any Goods or Merchandize belonging to such ship or vessel, ...	XXXI.	XXVI.	
„ Setting fire to any Mine of Coal, ...	„	XXVII.	
„ ditto to any stack of rice, corn or other grain, pulse, sugar cane, straw, hay or wood, or to any crop of rice, or to any part of a wood, coppice or plantation of trees or valuable plants, or to any grass or fern, ...	„	XXVIII.	
„ Stealing any growing tree, sapling or shrub, or any underwood, or any pole, post or stile, or any growing cultivated plant, root, fruit or vegetable production, or injuring any real or personal property, ...	„	XXIX.	
„ Money which shall be forfeited for the amount of any injury done shall be paid to the party aggrieved—Imprisonment for non-payment of forfeit money, ...	„	XXX.	
„ Where several persons guilty of the commission of the same offence shall be adjudged to forfeit a sum equivalent to the amount of the injury done, no further sum shall be paid to the party aggrieved than that which shall be forfeited by one of such offenders only, ...	„	XXXI.	
„ Offenders who shall have paid the sum adjudged with costs, or who shall have suffered imprisonment for non-payment thereof shall be released from all further proceedings, ...	„	XXXII.	
„ Every punishment and forfeiture imposed on any person maliciously committing any offence shall equally apply, whether the offence be committed for malice or otherwise, ...	„	XXXIII.	
„ It shall be necessary in any proceeding either for theft or for malicious injury, spoil or damage to or upon any property dedicated to public use, to allege the same to be the property of any person, ...	„	XXXIV.	
„ The word "property" shall include every thing included under the words "Chattel, money or valuable Security,"..	„	XXXV.	
„ Every principal in the second degree and every accessary before the fact in every case of Felony,.....	„	XXXVI.	

	Act.	Section.	Clause.
Criminal Act—Persons convicted of offences for which imprisonment shall be awarded may be imprisoned and kept to hard labor and in solitary confinement,.....	XXXI.	XXXVII.	
„ Natives of the East Indies not born of European parents, not to be transported to the East Coast of New South Wales, &c.,	„	XXXVIII.	
Customs Chokies established for the levy of duties of Customs on Goods exported by land to, or imported by land from, Foreign Territories, ...	I.	IX.	
Customs Officer—declaration of value of Goods shall be submitted to,..... ...	„	XXIV.	
„ shall be allowed 20 days, exclusive of Sundays and Holidays, for the discharge of the import cargo of vessels not exceeding 600 tons, and 30 days exclusive of Sundays and Holidays, for the discharge of import cargo of vessels, exceeding that burthen, ...	„	XLIV.	
„ sent on board of any vessel discharging cargo shall be allowed a further period of 15 days for putting on board export cargo if the vessel shall not exceed 600 tons burthen and 20 days if it exceed that burthen, ...	„	XLVI.	
„ shall be sent to watch the cargo of vessels put back for stress of weather during the relanding or removal of such cargo, ...	„	XLIX.	
„ Amenable to the Civil Courts at Bombay by action for damages on account of any executive acts done in their official capacity at the suit of the parties injured by such acts, ...	„	LX.	
Dhonies—See Craft.			
Drawback—shall not be allowed on Goods shipped on native Craft, such as Pattamars, Dhonies, &c.,.....	„	LIII.	
Duties (Customs)—Certain Regulations of the Bombay Code, prescribing the levy of—repealed, ...	„	II.	
„ „ levied on Goods imported by Sea into the Territories subject to the Government of Bombay, ...	„	IV.	
„ „ levied on Country Goods exported by Sea from any Ports of Bombay, ...	„	V.	

	Act.	Section.	Clause.
Duties (Customs)—Levied on Goods passing by land into or out of Foreign European Settlements within the limits of Bombay,..	I.	VII.	
„ „ Officers to receive money on account of, ...	„	X.	
„ „ Appointment of Officers receiving, to be notified in the Official Gazette, ...	„	XI.	
„ of Export or Import—Ships of any European Nation having firman privileges in the Port of Surat, not subject to, ... See Ships.	„	VI.	
„ leviable on Goods for which a value has not been fixed, shall be levied *ad valorem*, ...	„	XXII.	
Estates—Remuneration of Ameens, or other persons effecting partition of, ...	XI.	II.	
Excise Duty—See Salt.			
Fee (Anchorage) shall be levied at every port subordinate to the Bombay Presidency, according to the burthen on all country Craft above the burthen of 100 maunds,..	I.	LVI.	
Felony—See Criminal Act.			
Fine—The Master of a vessel shall be liable to, whose manifest of cargo shall not be found to contain a true specification of Goods imported in the vessel,.....	„	XXVII.	
„ to be levied on Masters of vessels refusing to deliver manifests of cargo, ... See Masters.	„	XXVIII.	
„ ditto ditto who shall refuse to allow an Officer to search their vessels,..	„	XXXVI.	
„ ditto ditto who shall remove from or put on board of vessels any Goods on any day when the Custom House is closed without leave of the Collector of Customs, ...	„	XXXVII.	
„ ditto ditto who shall put on board of vessels any Goods after the removal from them of the Custom House Officer,	„	XLVII.	
„ ditto ditto if Goods on account of which drawback has been paid be not found on board their vessels,.....	„	XLIX.	
„ ditto on persons for knowingly contravening the Anchorage rules regarding Coasting and Country Craft,....	„	LI.	
„ If any person in charge of a vessel shall become liable to—for any act or			

	Act.	Section.	Clause.
omission relating to Customs, the Collector of Customs shall be competent to refuse port clearance to such vessel until the fine be paid,.....	I.	LVIII.	
Fine to be imposed on persons who shall obstruct any Customs Officer in the exercise of any powers given him by this Act,..	„	LXI.	
„ ditto on Officers appointed under this Act, who shall accept or obtain from any person any property as a consideration for doing or forbearing to do any official act,.....	„	LXII.	
„ ditto or Officers appointed under this Act for practising any fraud on the Customs Revenue, ...	„	LXIII.	
„ to be awarded by Session Judges of Bombay in adjudging a sentence of fine, in like manner as is competent to Magistrates to award fines under Clause First, Section XIII. Regulation XII. 1827, of the Bombay Code,.....	IX.		
Fines shall be paid by owners of vessels for not marking, painting or numbering them and for not producing certificates of registration, &c.	XIX.	XIII.	
Functionaries appointed in the Province of Kumaon to be placed under the control in Civil and Criminal cases of the Courts of Sudder Dewanny and Nizamut Adawlut at Allahabad and in Revenue cases under the Sudder Board of Revenue at Allahabad, ...	X.	II.	
Ganja and Bhang—See Regulations.			
Goods passing in and out of the territory of any Native Chief not subject to the Presidency of Bombay, declared liable to the duty fixed for British or Foreign bottoms,....	I.	VIII.	
See Certificate.			
„ which may be passed across any frontier guarded by Chokies between sunset and sunrise shall be seized and confiscated,.....	„	XIV.	
„ Any Chokie Officer needlessly injuring under pretence of examination, or who shall wrongfully detain Goods for which there shall be produced a sufficient certificate, shall be liable to fine and imprisonment,.....	„	XVI.	

Goods

	Act.	Section.	Clause.
Goods imported by sea into any port of Bombay liable to same duties as are imposed by Schedule A. of this Act on imports on Foreign bottoms,.....	I.	XVII.	
„ entered into the Schedules of this Act as liable to duty shall be exempted from payment of it under special order from the Governor in Council of Bombay,	„	XVIII.	
„ admitted to free entry on export and import duty being paid,..	„	XIX.	
„ not allowed to leave any vessel or to be put on board thereof until entry of the vessel shall have been made at the Custom House, ...	„	XXX.	
See Confiscation—Boats.			
„ brought by sea and stowed in bulk shall be weighed or measured on board-ship before being sent to land,.....	„	XLII.	
„ remaining on board after 20 days or after the time allowed in the XLIV. Section of this Act, shall be landed and warehoused for the security of the duties chargeable thereon,.....	„	XLV.	
„ double duties shall be levied on—liable to duty that may be passed through the Custom House for shipment,.....	„	XLVIII.	
„ which are free or have paid import duty, 5 per cent on the market value shall be levied thereon, ...	„	„	
„ on board vessels put back from stress of weather shall not be allowed to be transhipped or re-exported free of duty, ...	„	XLIX.	
„ relanded before the lading of any vessel is complete the duty upon—shall be returned to the exporter, ...	„	L.	
See Drawback.			
„ exported in the same vessels, if manifested for re-export shall not be subject to import or export duty, ...	„	LIV.	
„ brought to any port in any vessel, if transhipped in such port shall be subject to the same duty as if they had been landed and passed through the Custom House for re-exportation, ...	„	„	
„ transhipment of—shall not be made except under special order in writing from the Collector of Customs of the port, ...	„	LV.	

	Act.	Section.	Clause.
Goods seized vexatiously and unnecessarily, damages shall be adjudged for with the immediate release of the same,.....	I.	LIX.	
Harbour Craft—See Vessels.			
Imprisonment—Chokie Officer to be liable to —who shall permit Goods to pass across the frontier line, when not covered by a sufficient certificate, ...	I.	XV.	
See Fine.			
Judge of Zillah or City Court shall exercise the powers vested in a single Judge of the Sudder Dewanny Adawlut, by Clause 2, Section 11. Regulation IX. 1831, of the Bengal Code, ...	VII.		
See Appeal.			
Justice (one) shall exercise all powers in Criminal Cases,.....	XXXII.	I.	
„ „ to issue warrants of distress for the recovery of arrears of Assessment, ..	„	II.	
Lieutenant Governor of the North West Provinces—See Power.			
Manifest of Cargo to be delivered by Master of vessel arriving at any Port of Bombay, ..	I.	XXVI.	
Masters refusing to receive on board their vessels Officers and their Servants appointed to watch the lading and unlading of the cargo shall be liable to fine, ...	„	XXXV.	
„ shall be charged with the wages of Customs Officers if the whole cargo of their vessels be not discharged within the period specified in this Act, ...	„	XLIV. and XLVI.	
Moonsiffs—See Regulation.			
Murder—See Criminal Act.			
Oath to be administered by a Commission appointed to enquire into any charge of malversation against any public servant,....	VI.		
Officer in charge of a Custom House at Bombay to pass free of duty any baggage in actual use,.....	I.	XVIII.	
Officers—See Duties.			
„ establishment of—maintained at any port to be sent on board of vessels to watch their lading and unlading,.....	„	XXXIV.	
„ competent to require any cabins, lockers or bulk-heads of vessels to be opened in their presence,.....	„	XXXVI.	
Palanquins—See Toll.			
Pattamar—See Craft.			

	Act.	Section.	Clause.
Penalty of 500 rupees—Master of vessel liable to for every missing or deficient package of unknown value of Goods entered in manifest, ...	I.	XXXI.	
Perjury—Any person guilty of—in the Court of Sudder Adawlut at Bombay, shall be committed to custody by that Court and transmitted to the Zillah Court nearest to the Presidency, ...	IV.	I.	
„ How punished,.....	XXVII.		
„ Any person shall be guilty of—who shall give such evidence before a Commission appointed to enquire into any charge of malversation against any public servant, as, if given before a Court of Justice, would render such witness guilty of perjury, ...	VI.		
Personal Estate—shall extend to leasehold estates and other chattels real, &c.	XXV.	I.	
Places—what—within the Presidency of Bombay—shall be ports for landing and shipment of merchandize,.....	I.	XXV.	
Poisoning—See Criminal Act.			
Postage Act—See VIII. Act No. XVII. 1837, repealed, ...	XX.	I.	
„ Letters exceeding in weight 12 tolas, and not exceeding 40 tolas, shall be received by Post Masters for transmission by the Letter Post,.....	„	II.	
Postage Act—Letters for dispatch being of the description specified in heads Nos 1, 2 and 3 of the Schedule A. annexed to Act XVII. 1837, the postage duty thereon shall be levied by rateable increase,.....	XX.	„	I.
„ ditto exceeding 12 and not exceeding 40 tolas brought for dispatch along a road where there is no regular Bhangee Post established, being certified to contain any of the things specified as subject to rateable postage duty under heads Nos. 1, 2 and 3 of the Schedule A. annexed to Act XVII. 1837, shall be forwarded by the Letter Post,.....	„	„	II.
„ ditto exceeding 40 tolas being brought for despatch by the Letter Post at Bhangee rates, may be forwarded under the rules prescribed in the preceding Section of this Act,.....	„	III.	

	Act.	Section.	Clause.
Postage Act—Letters brought for despatch by Bhangee Post shall not be returned on the ground that the post has not been laid for the whole distance to the place of delivery,	XX.	IV.	
„ Fine shall be levied on every person wilfully certifying by writing on any letter, cover, or packet delivered at any Post Office what is not true in respect to such letter, &c.	„	V. VI and VII.	
„ „ incurred on account of letters or packets, shall be demanded by the Post Master General,	„	VIII.	
„ „ Goods and Chattels of parties not paying, shall be sold by warrant under the hand of Magistrates,	„	„	
„ „ Fine—Parties, the proceeds of the sale of whose effects shall not equal the amount of—shall be put in prison,	„	„	
„ „ Post Master shall detain any letter or packet in respect of which any party shall become liable to a—until it shall be paid,	„	IX.	
Powers given to the Governor General of India in Council by Section I. of this Act may be delegated to the Governor of Bengal, and to the Lieutenant Governor of the North West Provinces,	XIII.	II.	
„ „ given to the Collector of Customs by the Governor in Council of Bombay, can be transferred to any other functionary,	I.	LXIV.	
Powers—See Judge.			
Principal Sudder Ameen—all persons committed by the—of Sirsee for the trial before the Court of Circuit for the Western Division of the Madras Territories shall be tried at the Sessions of Jail Delivery to be held at Honore,	XXVI.	I.	
„ all persons committed by—at Madras, for trial before the Court of Circuit, shall be tried at any Sessions of Jail Delivery to be held at any station within the Zillah Court of such Principal Sudder Ameen,	„	II.	
See Treasure (hidden)—Regulation Appeals.			
Real Estate—shall extend to messuages, lands, rents and hereditaments, whether corporeal, incorporeal or personal	XXV.	I.	

Registration

	Act.	Section.	Clause.
Registration of Deeds shall be subject to the payment of the same fees as are prescribed in Section XIV. Regulation XXXVI. 1793,	XXX.	III.	
Registry of Deeds—Offices for—may be established at any Civil Stations,	„	II.	
„ What Regulation and Sections shall not be held applicable to offices and persons established and appointed for,	„	IV.	
„ copying of—shall be paid for according to the established rates of section writing, &c.,	„	V.	
„ on account of the death or absence of any person appointed to register deeds, the Zillah Judge shall appoint any person to take charge of the Office of Registerer of Deeds,	„	VI.	
„ of vessels at Bombay of every description, their burthen, and the names of their owners shall be made by the Master Attendant,	XIX.	IV.	
Regulation I. 1832 of the Bombay Code, repealed,	I.	II.	
„ IV. 1833 of ditto ditto,	„	„	
„ IV. 1834 of ditto ditto,	„	„	
See Transit or Inland Customs Duties.			
„ X. 1817 of the Bengal Code, repealed,	X.	I.	
„ XII. 1833, Provisions of—to extend to the Court of Principal Sudder Ameen, Sudder Ameen, or Moonsiff,	XIII.		
„ XII. 1827, Bombay Code, Clause I. Section XXXV. of, repealed,	XV.		
„ XIX. 1814, Bengal Code, Section XV. of—repealed,	XI.	„	
„ V. 1831, ditto so much of Clause 1, Section XVIII. of—which provides that no suit be referred to a Principal Sudder Ameen, in which the Vakeels or Officers of his Court shall be a party, repealed,	XXVII.	„	
„ X. 1819, Bengal Code, Sections LIX. LX. and LXI. of—repealed,	XXIX.	„	
„ XXXVI. 1793, Sections II. and XIV. of—modified,	XXX.	„	
„ IV. 1831, Madras, Code—So much of Section III. of—as excepts the liability to attachment or sequestration in certain			

cases

	Act.	Section.	Clause.
cases of the grants mentioned in Section II. of the said Regulation, repealed, ...	XXIII.		
Regulation XX. 1827, Bombay Code, Sections XX. and XXI, of—repealed,.....	XIX.	I.	
Regulations—all the—of the Bombay Code, passed before the year 1827, with certain exceptions, repealed, ...	I.	,,	
,, II. and XIII. 1831, of ditto, repealed, ...	,,	II.	
,, III. 1820 and IX. 1831, provisions of—extended to Ganja and Bang, ...	XIV.		
Resistance to Salt Officer shall be punished in like manner as if it had been offered to the ordinary process of the Collector,.....	II.	VII.	
Revenues—See Collector.			
Rewards to be distributed amongst Customs Officers from the proceeds of the sale of goods liable to confiscation, ...	I.	LIX.	
Routes by which goods shall be allowed to pass into or out of any Foreign Territory, public notice shall be given of,.....	,,	XIII.	
Rules to be established for the anchorage of the country and coasting craft for the delivery of manifests of the cargo of vessels and for the landing of goods therefrom and shipping of goods therein, ...	,,	LI.	
Salt that has paid the excise duty fixed by Act No. XXVII. 1837, a certificate shall be granted for, and shall be passed into the interior without the levy of any further duty either of excise or of customs,.....	,,	XLIII.	
,, shall not be manufactured at any place within the Territories of the Lieutenant Governor North Western Provinces unless notice be given to the Collector of the district in which the places of manufacture may be situated,..	II.	I.	
,, manufactured and stored. The Collector shall, by an order under his seal and signature, depute one or more Officers who shall have power to take account of, ...	,,	II.	
,, Works—Proprietors of—within the North West Provinces, shall pay to the Collector the wages of one Officer retained for the supervision of the Works at the rate of 10 rupees per mensem,..... See Wages.	,,	III.	

	Act.	Section.	Clause.
Salt Works producing—of which notice has not been given in the manner prescribed shall be destroyed, ...	II.	IV.	
„ Agent or Superintendent of Salt Chokies, how to act upon information received that contraband Salt is stored in any warehouse, &c.....	XXIX.	II. V.	
„ What quantity of contraband—stated to be clandestinely warehoused, to be seized,	„	III.	
„ The door of the warehouse where contraband is stored, to be broken open,.....	„	IV.	
„ It is competent to the head Officer of any Salt Chokie or Aurung to receive information of—being in store in a house as prescribed in Section II. and to act thereupon as provided in Sections III. and IV. of this Act, ...	„	VI.	
„ Daroga, or other Officer refusing to act in the seizure of hidden—shall be fined and dismissed from office, ...	„	VII.	
„ When a house is to be broken open to effect a seizure of—the rules prescribed in Regulation XX. 1817, and Section X. Regulation VII. 1799 of the Bengal Code, shall be observed by the Police Officers in attendance, ...	„	VIII.	
„ Circumstances under which seizure of, is made shall be recorded in the office, ...	„	IX.	
„ When seizure of—is made by an Officer of Salt Department other than an Agent or Superintendant of Chokies, such Officer shall report the circumstances of the seizure to his official superior,.....	„	X.	
„ No—found in store shall be deemed to be contraband unless there shall be more thereof than one maund or Indian mun,..	„	XI.	
„ Persons carrying—unaccompanied by a Rowanna shall be apprehended, ...	„	XII.	
„ Officers to stop and search any vessels adapted for sea, that may be found within the limits described in Section XXXIII. of this Act, and to detain them if Salt be found thereon unaccompanied by any Rowanna and to take them up for adjudication of the case, ...	„	XIII.	
„ Any person found conveying—without Rowanna in Bengal or Orissa shall be punished, ...	„	XIV.	

	Act.	Section.	Clause.
Salt—Persons failing to pay fine imposed on them for smuggling—liable to imprisonment,	XXIX.	XV.	
„ Persons sentenced to imprisonment under Sections XXXI. LXVIII. and LXX. of Regulation X. 1819, Bengal Code, may suffer such punishment in the Foujdarry Jail,	„	XVI.	
„ Persons convicted for a second time of gang smuggling to be imprisoned for six months in the Foujdarry Jail,	„	XVII.	
„ Agent shall proceed for the recovery of any balance due to Government by the process of distraint,	„	XVIII.	
„ Parties preventing the arrest of persons by Salt Officers liable to the punishment prescribed in Section LVI. Regulation X. 1819, Bengal Code,	„	XIX.	
„ Officer neglecting to convey Salt smugglers to the proper Salt Officer to be dismissed from office and to suffer fine and imprisonment,	„	XX.	
„ The party arresting any Salt smuggler shall be bound to take the person to the proper Officer of the Salt Department,	„	XXI.	
„ Any Salt Officer vexatiously and unnecessarily seizing any Goods on the pretence of searching for Salt to be punished with dismissal from office, with fine and imprisonment,	„	XXII.	
„ Any person giving false information in respect of there being illicit—in any house whereby such house shall be searched to the injury of its owners, shall be liable to imprisonment, &c.	„	XXIII.	
„ Parties convicted of the illegal possession of and liable to the penalty of 5 rupees per maund shall one and all be liable to the whole fine,	„	XXIV.	
„ Any Assistant to a Salt Agent or uncovenanted Superintendant of Salt Chokies shall be vested with power of adjudicating cases of contravention of the Salt Revenue laws,	„	XXV.	
„ Cases arising out of this Act shall be tried in the same manner as is prescribed in Regulation X. 1819, Bengal Code, for other cases of contravention of the Salt Revenue laws,	„	XXVI.	

	Act.	Section	Clause.
Salt—Persons under engagement with Government for the Land Revenue on whose land there shall be any Salt Works shall give notice of the same to the nearest public Officer of Police or Land Revenue,.....	XXIX.	XXVII.	
„ Proprietors or land farmers, &c. who shall knowingly fail to give notice of—manufactured in the lands under their management, shall be liable to fine,.....	„	„	
„ When there shall be no direct proof of the unauthorized removal of—from any Golah the Officer in charge of such Golah shall be liable for the offence of embezzling, and suffer fine, &c.	„	XXVIII.	
„ How the cases of persons charged with the contravention of the Salt Revenue laws are to be adjudicated,.....	„	XXIX.	
„ In an exparte case the City or Zilla Judge shall issue orders and institute proceedings authorized by Sections CXI. to CXIII. of Regulation X. 1819, Bengal Code—Fines to be levied on the application of the Salt Agent, &c. under the rules in force for the execution of the decrees of Civil Courts, ...	„	XXX.	
„ Judgment of any Salt Agent, &c. shall be final in all cases wherein the Salt adjudged to be confiscated shall not exceed 80 maunds, and the fine imposed on the defendant shall not exceed rupees 400, ...	„	XXXI.	
„ Zilla and City Judges shall pass final judgment in all cases when the quantity of Salt to be confiscated shall exceed 80 maunds, or the fine imposed shall exceed 400 rupees. In all such cases there shall be an appeal open to the Sudder Dewanny Adawlut, ...	„	XXXII.	
„ Within what tract of country the penalties of this Act are to take effect,.....	„	XXXIII.	
Section XV. Regulation XIX. 1814, Bengal Code, repealed, ...	XI.	I.	
Ships of any European nation having firman privileges in the port of Surat not subject to duties of import or export, ...	I.	VI.	
Stabbing—See Criminal Act.			
Sudder Boards of Revenue of Calcutta and Allahabad to fix the remuneration of an Ameen or other person, employed to effect			

a partition

	Act.	Section.	Clause.
a partition of an estate under Regulations enacted for that purpose, ...	XI.	II.	
Suit—where a—cannot be referred to a Sudder Ameen and where the Zillah and City Judges cannot refer such suit to be tried by any other authority, each of the Courts of Sudder Dewanny Adawlut within the Presidency of Fort William shall direct that the cognizance of such suit shall be transferred to any other Zillah or City Court, ...	XVII.	,,	
Suits presented in the Courts of Judges or Collectors at Bombay which they shall not deem within their jurisdiction shall be referred by them to those Courts in which the jurisdiction lies,.....	XVI.	,,	
,, the jurisdiction of disputed—at Bombay shall be decided at the Sudder Dewanny Adawlut, ...	,,	II and III.	
,, a Court of Adawlut or a Revenue Court at Bombay entering on its file a suit in which it has no jurisdiction, the Sudder Dewanny Adawlut shall direct that the suit be transferred to the Court possessing jurisdiction, ...	,,	IV.	
,, in Bombay—regarding tenures, and the nature and extent of the interest which should be enjoyed by the parties concerned, shall be brought in the Courts of Adawlut, and not in the Revenue Courts, ...	,,	I.	I.
Sureties of—Collectors entrusted with the collection of Revenues of the Bombay Government shall be liable to be proceeded against in case of default jointly and severally in the same manner as their principal is liable to be proceeded against, ..	XVIII.	II.	I.
,, shall pay a sum sufficient to cover any loss which the Government may sustain by the default of the principal, ...	,,	,,	II.
,, shall not be liable to summary imprisonment, provided they pay into the Collector's treasury the penalty named in the bond,....	,,	,,	III.
,, may withdraw from their suretyship on their stating to the Officer to whom bond has been given their desire to withdraw,..	,,	IV.	
,, liability of—shall not be affected by the death of principal or by his appointment			

to

	Act.	Section.	Clause.
to a situation different from that which he held when the bond was executed, ...	XVIII.	V.	
Sureties of—the date from which the liability of —is to commence shall be stated in the bond,	„	VI.	
Treasure (hidden)—All powers vested in Zillah or Assistant Judges by Regulation XI. 1832 of the Madras Code, in respect of—shall be vested in Principal Sudder Ameens in the Madras Presidency,.....	XII.		
Territory of any Native Chief, not subject to the jurisdiction of the Courts, and Civil Authorities of Bombay, may be deemed to be Foreign Territory,.....	I.	VIII.	
Toll—Rates of—shall be levied at the Bhore Ghaut on Palanquins, &c.....	VIII.	I.	
„ leviable on Palanquins, laden Bullocks, &c. —the provisions of Act No. II. 1837, shall be applicable to, ...	„	II.	
Value to be fixed on any Articles liable to *ad valorem* duty and the value so fixed be taken to be the value of the articles for the purpose of levying duties on the same,..	I.	XXI.	
„ (market) for assessment of the duties on *ad valorem* Goods shall be declared by the owner, &c. upon the face of the application for the passing of Goods through the Custom House, ...	„	XXIII.	
Vessels—not allowed to break bulk until a manifest shall have been delivered to the Collector of Customs. Port Clearances, Cocketts, &c. shall likewise, be delivered to him, ...	„	XXIX.	
„ employed in the Coasts of Bombay, shall be marked or branded with the name of the place to which they belong,.....	XIX.	III.	
„ employed in the Coasts of Bombay, shall have their names, number, burthens, and names of owners, registered in a book,	„	IV.	
„ registered at a subordinate port at Bombay information thereof shall be given by the Registering Officer to the Master Attendant, ...	„	V.	
„ How and by whom to be marked and branded, ...	„	Vi.	
„ Owners of—shall apply for Certificates of Registry from the person authorised to make such registry,..... See Certificate.	„	VII.	

	Act.	Section.	Clause.
Vessels—what fees shall be paid by owners of—for certificates of registry,.....	XIX.	X.	
„ —Fees for the registry of—at Bombay shall be paid to Officers appointed by the Governor of Bombay and to be carried to the credit of Government, ...	„	XI.	
„ Owners of—shall produce certificates,	„	XII.	
„ —Persons seizing—for not being marked and numbered, and for not producing certificates of registration, &c., shall be compensated out of the proceeds of the sale of such vessels,.....	„	XIV.	
Wages of extra Officers employed by the Collector to supervise Salt Works in the North West Provinces shall be defrayed by Government, ...	II.	III.	
Warrants issued by (one) Justice of the Peace shall be deemed legal,..... See Justice (one.)	XXXII.	„	
Will shall extend to a testament, codicil, &c.	XXV.	I.	
„ —this Act shall extend to wills of persons whose personal property cannot by the Law of England pass to their representatives without probate or letters of administration obtained in one of Her Majesty's Supreme Courts of Judicature, ...	„	III.	
„ —It will be lawful for persons to bequeath by—all real and personal estate in law or in equity, and which if not so bequeathed will devolve upon the heirs at law of them,..	„	IV.	
„ not to be made by any person under the age of twenty-one years, ...	„	V.	
„ made by a married woman not be be valid except such as might have been made before the passing of this Act, ...	„	VI.	
„ to be signed at the foot or end thereof by the testator or some other person in his presence and by his direction, ...	„	VII.	
„ must be signed in the presence of two or more witnesses, ...	„	„	
„ must be subscribed to by witnesses in the presence of the testator, ...	„	„	
„ —no appointment made by will shall be valid unless it be executed in the manner required in Section VII., ...	„	VIII & IX.	
„ —if any person who shall attest the execution of a will, be incompetent to be admitted a witness to prove the execution			

thereof,

	Act.	Section.	Clause.
thereof, the will on that account shall not be invalid,	XXV.	X.	
Will—any gift or bequest made to the attestor of the execution of a will shall be null and void,	„	XI.	
„ —any person to whom a legacy may be bequeathed in a will, competent to attest the execution thereof,	„	„	
„ —in case by any will, any estate shall be charged with debts, the creditor shall be competent to attest the execution thereof,	„	XII.	
„ —an Executor to a will not incompetent to be admitted a witness to prove the execution thereof,	„	XIII.	
„ made by a man or woman shall be revoked by his or her marriage,	„	XIV.	
„ shall not be revoked by any presumption of an intention on the ground of an alteration in circumstances,	„	XV.	
„ —no will or codicil shall be revoked but by another will or codicil,	„	XVI.	
„ —no obliteration, interlineation, or other alteration made in any will after its execution shall be valid,	„	XVII.	
„ —no will or codicil revoked, shall be revived otherwise than by the re-execution thereof,	„	XVIII.	
„ —no conveyance or other act made subsequently to the execution of a will, shall prevent its execution,	„	XIX.	
„ —every will shall be construed to speak and take effect, as if it had been executed immediately before the death of the testator,	„	XX.	
„ —real estate and interest in a will, which shall fail or be void by reason of the death of the devisee in the life time of the testator shall be included in the residuary devise,	„	XXI.	
„ —a general devise of the real estate of the testator shall be construed to include any real estate,	„	XXII.	
„ —a bequest of the personal estate of the testator shall be construed to include any personal estate,	„	„	
„ —where any real estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the fee simple,	„	XXIII.	

	Act.	Section.	Clause.
Will—the words "die without issue" or "die without leaving issue," shall mean a want or failure of issue in the life time, or at the time of the death of such person and not an indefinite failure of his issue, ...	XXV.	XXIV.	
„ —any real estate devised to any trustee or executor shall be construed to pass the fee simple, ...	„	XXV.	
„ —where any real estate shall be devised to a trustee without any express limitation, such devise shall be construed to vest in such trustee the fee simple, ...	„	XXVI.	
„ —how any estate devised for an estate tail or an estate in quasi entail is to be disposed of, ...	„	XXVII.	
„ —where any person being a child of the testator to whom any real or personal estate shall be devised, shall die in the life time of the testator leaving issue, such devise shall not lapse,..	„	XXVIII.	
„ —any soldier being in actual military service or any seaman being at sea may dispose of his personal property, ...	„	XXIX.	
„ —nothing in this Act shall repeal the provisions of Act No. XX. 1837, ...	„	XXX.	
„ —this Act shall not extend to any will made before the 1st February 1839,.....	„	XXXI.	
Witnesses to be summoned before a Commission appointed to enquire into any charge of malversation against any public servant, ...	VI.		
Wounding—See Criminal Act.			
Wuttons—See Suits.			

G. H. Huttmann, Bengal Military Orphan Press.

BENGAL SECRETARIAT LIBRARY

ACT No. I. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 4th February, 1839.

I. IT is hereby enacted, that from the first day of May next ensuing after the passing of this Act, all Regulations and parts of Regulations of the Bengal Code, which give to any persons or class of persons authority, by virtue of any office held by them, to sell property distrained for the recovery of arrears of rent, shall, so far as they give such authority, be repealed.

II. And it is hereby enacted, that from the date aforesaid it shall be lawful for the Collector or Officer duly exercising the powers of a Collector in each District subject to the Presidency of Fort William in Bengal, to appoint, by a Sunnud under his signature and seal, in the terms of the Schedule appended to this Act, and conformably to such instructions as he may receive in that behalf, any person or persons to exercise the function of selling property distrained for the recovery of arrears of rent in each Pergunnah or Sub-division of his District, and to authorize such persons to remunerate themselves by deducting a per centage, not in any case exceeding ten per centum on the amount of the proceeds of the sale.

III. And

III. And it is hereby enacted, that all Regulations and parts of Regulations of the Bengal Code which give powers to, or prescribe rules for the guidance of persons appointed to conduct the sale of property distrained for the recovery of arrears of rent, or which assign any penalty or other punishment for misfeasance in the discharge of such duty, shall be applicable to all parties appointed for the sale of such property under this Act.

SCHEDULE.

I, A. B., Collector of Zillah (or exercising the powers of a Collector) in virtue of the powers vested in me by Act No. I. of 1839, appoint you C. D., Commissioner for the sale of property distrained for the recovery of arrears of rent, in the manner prescribed by the Regulations of Government. You are to reside at E., in Pergunnah F., and are to exercise the authority vested in you by these Regulations, or by any others which may be hereafter transmitted to you for your guidance, in strict conformity thereto; and are to keep a regular and complete record of your proceedings to be produced when called for by me, or by the Courts of Justice. You are hereby authorized to remunerate yourself for your trouble, by deducting and appropriating —— per centum on the amount of the proceeds of sale.

Calcutta: 1839.—Printed at the Bengal Military Orphan Press, by C. H. Huttmann.

5th March 1839.

ACT No. II. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 4th February, 1839.

I. IT is hereby enacted, that in all cases of fines by which offenders are or may be punishable by any Magistrate, according to the Provisions of any Act heretofore passed or which shall hereafter be passed by the Governor General of India in Council, it shall be lawful, in case of non-payment, if no other means for enforcing the payment are or shall be provided by such Act or otherwise, for the Magistrate, by warrant under his hand, to levy the amount of such fine by distress and sale of any goods and chattels of the offender which may be found within the jurisdiction of such Magistrate, and if no such property shall be found within such jurisdiction, then it shall be lawful for every such Magistrate by warrant under his hand, to commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such Magistrate, for any term not exceeding two calendar months, where the amount of the fine shall not exceed 50 Rupees, and for any term not exceeding four calendar months, where the amount shall not exceed 100 Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount.

II. And

II. And it is hereby enacted, that in all cases in which offenders are or may be punishable by any Magistrate with fine or imprisonment, or both, according to the Provisions of any Act heretofore passed or which shall hereafter be passed by the Governor General of India in Council, and where the extreme amount of the fine or imprisonment is not specified, it shall not be lawful for the Magistrate to impose any fine exceeding 200 Rupees, or to imprison the offender for any term exceeding six months.

III. And it is hereby enacted, that in all cases in which offenders are or may be punishable by fine before a Magistrate, according to the Provisions of any Act heretofore passed or which hereafter shall be passed by the Governor General of India in Council, it shall be lawful for the Magistrate, and he is hereby required to receive proof of the commission of the offence upon oath, or upon solemn affirmation in cases where a solemn affirmation is receivable by law instead of an oath.

IV. And it is hereby declared and enacted, that in this Act and in all Acts heretofore passed by the Governor General of India in Council, the terms "fine" and "fines" shall extend to all "penalties" and "forfeitures," and the term "Magistrate" shall extend to all "Joint Magistrates," "Persons lawfully "exercising the powers of a Magistrate," and "Justices of the Peace."

Calcutta: 1839.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. III. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 18th February, 1839.

I. IT is hereby enacted and declared, that within the British Territories under the Government of the East India Company, no person whatever is or shall be, by reason of place of birth or by reason of descent, in any proceeding whatever connected with arrears or exactions of rent, excepted from the jurisdiction of the Revenue Courts, any thing in Act No. XI. of 1836 contained notwithstanding.

II. And it is hereby enacted, that no such proceeding which may have been instituted before the passing of this Act in any such Court, and no decree which may have been passed before the passing of this Act in any such proceeding by any such Court, shall be treated as invalid by reason of the place of birth or by reason of the descent of any party to such proceeding or to such decree.

III. And it is hereby enacted, that within the said Territories no person whatever shall, by reason of place of birth, or by reason of descent, be in any civil proceeding whatever connected with arrears or exactions of rent excepted from the jurisdiction of the Courts of the Moonsiffs.

Calcutta 18[illegible] — Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. VI. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 18th March, 1839.

I. THE existing Charter of the Bank of Bengal having been found in many respects inconvenient and imperfect, the Members of the said Corporation have by their Directors applied to the Governor General of India in Council for the amendment thereof, by a new Charter or Act of Incorporation, tendering the surrender thereupon of the said Charter, and the Governor General in Council having assented to such surrender, and to the continuance of the said Corporation as hereinafter declared;—It is hereby enacted, that from the 1st day of May next after the passing of this Act the Charter of the said Bank of Bengal bearing date the 29th May 1823, and the Acts No. XIX. of 1836 and No. XXIV. of 1838 relating thereto, shall respectively cease to have effect; and the same are hereby from that day cancelled, save as to such particulars as are herein mentioned or referred to.

II. And it is hereby enacted, that the persons who at the time of the determination of the said Charter and Acts aforesaid shall, under the provisions of the said Charter and Acts, be the Proprietors of the Capital Stock of the said Bank of Bengal, shall notwithstanding the determination of the said Charter and Acts continue to be a corporation, body corporate and politic by the name of

of the Bank of Bengal with perpetual succession to them and their successors Proprietors for the time being of the said Bank as hereinafter mentioned, and to possess and enjoy all the rights, privileges and immunities incident by law to a corporation aggregate.

III. And it is hereby enacted, that all property and securities for property, claims and demands whatsoever now vested in or held by the said Bank of Bengal, under and by virtue of said Charter and Acts, shall immediately on the determination of the said Charter devolve on and become vested and continued in the Bank of Bengal, so continued and incorporated by this Act as aforesaid, and that the said Bank of Bengal so continued and incorporated as aforesaid shall be subject to all debts, demands, claims and liabilities outstanding against the said Bank at the time of such determination of its said Charter as aforesaid, and that no suit or proceeding at Law or in Equity then pending shall cease or abate in consequence of such determination of the said present Charter, and of such renewal and continuance of the said Bank by virtue of this Act.

IV. And it is hereby enacted, that the said Bank so renewed and continued shall and may sue and be sued by its corporate name aforesaid, and shall and may have and use such common seal as the Directors of the said Bank shall from time to time appoint, and shall be competent to acquire and hold either absolutely or conditionally, for a term or in perpetuity, any description of property whatever and to transfer and convey the same.

V. And it is hereby enacted, that the Capital Stock of the said Bank as constituted under the said present Charter and Acts shall on the determination of the same by virtue of this Act continue to be the Capital Stock of the said Bank so renewed and continued as aforesaid, provided however that it shall be in the power of the Governor General of India in Council from time to time,

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by resolution notified in the *Calcutta Gazette*, to authorize the said Capital Stock to be increased, and to make such order and direction for the opening of subscriptions towards such increase of capital as to him may seem fit, giving due notice thereof to the Proprietors of the said Bank for the time being, and allowing to them a period of not less than twelve months to fill up such subscription themselves, and likewise to prescribe in what manner and form the Proprietors shall subscribe and pay into the said Bank the proportions of new Stock to which they may respectively be entitled, and to make such order and direction as to him the said Governor General in Council may seem fit for the disposal of the amount of new Stock that may not be subscribed for and paid up in the manner and form so prescribed.

VI. And whereas the Capital Stock of the said Bank which by the said Act No. XIX. of 1836 was fixed at seventy-five lakhs of Rupees divided into 1,875 Shares of four thousand Rupees each, has by the Resolution of the President of the Council of India in Council, issued and notified to the Proprietors on the 17th October 1838, in conformity with Act No. XXIV. of 1838 been ordered to be increased by one-half, and whereas a book is now open for subscriptions and payment is now being made of such increased capital in the manner and under the terms and conditions authorized in the said Act No. XXIV. of 1838, and prescribed in the said order and notice of the President in Council. It is therefore hereby enacted, that the Capital Stock of the said Bank shall on the said 1st May next when this Act shall take effect for the re-incorporation of the said Bank, consist of the said sum of seventy-five lakhs of Company's Rupees, together with such further amount as shall on that date have been subscribed and paid into the Bank of Bengal under the order and notice referred to, and the further subscriptions and payments of Capital authorized and ordered as abovementioned shall continue to be received in the manner provided in the said order and notice of the President in Council, and shall be

added

added to the Capital Stock of the Bank as received, accordingly as is prescribed in the said order passed under the authority of the said Act, and the Capital Stock held by the Bank of Bengal on the said 1st May next, together with the further Capital that may be subscribed and paid up as above after that date shall be divided into shares of four thousand Rupees each, or into quarter shares of one thousand Rupees each in the manner declared and provided by Act No. XIX. of 1836, and the shares of the said Capital that may be then registered in the name of the Governor General of India in Council, shall be the property of the said Governor General of India in Council for the time being on behalf of the East India Company, together with any new shares or quarter shares for which subscription may be made on account thereof, under the option reserved to the said Governor General of India in Council to that effect in the said order and notice, and the shares and quarter shares registered as belonging to individual Proprietors shall continue to be the property of such Proprietors, and the said Proprietors shall respectively be in the proportion of their several interests Proprietors of the Bank of Bengal as re-incorporated by this Act, and shall hold and enjoy in respect to their several shares and interests the same precise rights and privileges, as regards the subscription to fresh Stock, under the order and notice referred to, as they would have done if the Bank of Bengal had continued under the Charter and Acts referred to, the re-incorporation of the said Bank by this Act notwithstanding.

VII. And it is hereby enacted, that no Proprietor shall be allowed to increase his share in the Capital Stock of the said Bank beyond the amount of one lakh and sixty thousand Rupees, excepting on occasion of the present or of any future increase being made to the Capital Stock of the said Bank under the authority of the Governor General in Council in the manner prescribed in Sections V. and VI. of this Act, in which case any Proprietor holding Stock to the full amount of one lakh and sixty thousand Rupees, shall notwithstanding

be

be entitled to subscribe to the increased Capital Stock in a rateable proportion; and excepting any addition to his interest in the said Capital Stock arises from succession, bequest or marriage.

VIII. And it is hereby enacted, that a certificate signed by three Directors of the said Bank shall be delivered to the Proprietor or Proprietors of all the said shares of the Capital Stock of the said Bank, upon demand made by the holder of such share, and that any person who is a Proprietor of more than one such share, may at his option demand a certificate for each of his shares, or one certificate for all his shares, or several certificates, each of which may be for any number of his shares.

IX. And it is hereby enacted, that the said share or shares of the Capital Stock of the said Bank shall be of the nature of personal estate of the Proprietors thereof respectively, and that the same shall be transferable by endorsement to be made on such certificates thereof respectively, under the hand of the Proprietor or Proprietors, or his, her, or their Attorneys duly authorized, which endorsement shall specify the name of the person or persons to whom the said transfer shall be made, provided that no such endorsement shall be effectual to transfer any such share or shares until such endorsement shall have been registered at the Bank of Bengal, and such registration shall have been noted on such endorsement under the hand of an Officer appointed for that purpose by the Directors of the said Bank.

X. And it is hereby enacted, that the said corporate body, so renewed and continued as aforesaid, shall consist and be composed of the registered Proprietors for the time being of the said shares of the Capital Stock of the said Bank, and of no other person or persons whatsoever.

XI. And

XI. And it is hereby enacted, that the business of the said Bank shall be managed by nine Directors, of whom three shall be appointed and removable by the Governor General of India in Council, and the remaining six shall be elected by a General Meeting of the Proprietors of the said Bank, and removable by vote of the majority of a General Meeting of the said Proprietors.

XII. And it is hereby enacted, that the persons who, at the time of such determination of the said present Charter and Acts as aforesaid, shall be Directors of the said Bank, shall thereafter continue to be Directors of the said Bank so renewed and continued as aforesaid.

XIII. And it is hereby enacted, that two of the six Directors elected and to be elected by the said Proprietors shall in rotation go out of office on the second Monday in the month of December in every year, on which day in every year a General Meeting of Proprietors shall be held for the election of two Directors in their stead—provided always that any Director going out by rotation as aforesaid may not be re-elected at the election which takes place thereupon—provided also that the rotation existing at the time of such determination as aforesaid of the said present Charter and Acts shall continue to be observed.

XIV. And it is hereby enacted, that in case of the death, resignation, or absence from Calcutta for more than three months, or removal as aforesaid of any Directors elected or to be elected by the said Proprietors, the Directors shall call a General Meeting of the Proprietors to be held within fifteen days for the purpose of chusing a successor, and such successor shall come into the same place in the rotation abovementioned in which the Director was.

XV. And it is hereby enacted, that no person shall be capable of serving as a Director by election of the said Proprietors who shall not be Proprietor in his

his own right, and unincumbered of three shares of twelve thousand Rupees of the Capital Stock of the Bank of Bengal, or who shall be a Director of any other Bank issuing Notes payable on demand within the Town or Suburbs of Calcutta.

XVI. And it is hereby enacted, that at General Meetings of the Proprietors every election and other matter in question shall be decided by a majority of votes, and that no person shall be allowed to vote at any such Meeting in respect of any share of the said Capital Stock acquired by transfer or purchase or otherwise than by act of law, unless such transfer shall have been completed six months at the least before the time of tendering such vote.

XVII. And it is hereby enacted, that at all such General Meetings the Proprietors shall vote according to the following scale:

1	Share of	4,000	Rs. shall	entitle to	1 vote.
5	„	„	„	2	„
10	„	„	„	3	„
15	„	„	„	4	„
20	„	„	„	5	„
30	„	„	„	6	„
40	„	„	„	7	„

and no Proprietor shall be entitled to more than seven votes.

XVIII. And it is hereby enacted, that it shall be lawful for the Governor General of India in Council to give a proxy in writing, signed by one of the Secretaries to Government, to any person whom the Governor General may appoint to attend any General Meeting of the Proprietors, and that the holder of such proxy shall be entitled to give seven votes upon all matters or questions that

that may be submitted to such meeting excepting upon the election or removal of such Directors as are elected by the said Proprietors.

XIX. And it is hereby enacted, that any Proprietor or Proprietors entitled to vote at any General Meeting may give a proxy in writing, either General or Special, under his, her or their hand, or the hand of his, her or their attorney, duly authorized, to any other Proprietor, and that such proxy shall be produced at the time of voting, and that such proxy shall entitle the person to whom it is given to vote on such matters as shall be authorized by the tenor of such proxy.

XX. And it is hereby enacted, that at the first Meeting of the Directors in every year they shall chuse a President from among themselves, and if the office of President shall become vacant they shall at their next Meeting chuse a successor for the remainder of the current year, and that during any vacancy or in the absence of the President the senior Director shall be Vice-President for the time, and that such President or Vice-President shall have the casting vote in all cases of an equal division of votes at Meetings either of Directors or Proprietors.

XXI. And it is hereby enacted, that the presence of at least three Directors shall be necessary to form a board for the transaction of business, and that the said Directors shall establish a weekly rotation among themselves, so that not less than three Directors may attend every Meeting of Directors, provided always, that nothing herein contained shall be held to preclude any Director from attending any Meeting of Directors.

XXII. And it is hereby enacted, that all accounts of the said Bank, and all instruments not under seal, whereby the said Bank can in any manner be bound, except the Cash Notes of the Bank, shall be signed by three Directors

and

and shall be of no validity unless so signed, and that the seal of the said Bank shall not be affixed to any instrument except in the presence of three Directors who shall sign their names to the instrument in token of their presence, and that such signing shall be independent of the signing of any person who may sign the instrument as a witness, and that unless so signed by three Directors such instrument shall be of no validity.

XXIII. And it is hereby enacted, that the said Directors shall have power to appoint such Officers as may be necessary to conduct the business of the said Bank, and to remove any Officer of the said Bank, and to fix the salaries of such Officers, provided that the whole expence of the establishment of the said Bank shall not in any one year exceed sixty thousand Rupees, without previous authority from the General Meeting of the Proprietors.

XXIV. And it is hereby enacted, that no person who shall hold the office of Secretary, Treasurer, Head Accountant or Khazanchee of the Bank of Bengal, shall engage in any other commercial business either on his own account, or as Agent for any other person or persons, or act as a broker for the sale or purchase of Government Securities; and that every person appointed to any one or more of the said offices shall give security to the Directors for the faithful discharge of his duty in the sum of fifty thousand Rupees.

XXV. And it is hereby enacted, that the said Bank of Bengal shall not be engaged in any kind of business except the kinds of business hereinafter specified, that is to say—

1. The Discounting of Negotiable Securities.
2. The keeping of Cash Accounts.
3. Buying and Selling of Bills of Exchange payable in India.

4. The

4. The lending of Money on short loans.

5. The Buying and Selling of Bullion.

6. The receiving of Deposits.

7. The issuing and circulating of Cash Notes and Bank Post Bills.

8. The selling of Property or Securities deposited in the Bank as security for loans and not redeemed, or of Property or Securities recovered by the Bank in satisfaction of debts and claims.

XXVI. And it is hereby enacted, that the Directors of the said Bank shall discount no Negotiable Security and make no loan unless the amount of cash in possession of the said Bank, and immediately available, shall be equal to at least one-fourth of all the claims against the said Bank, outstanding for the time being and payable on demand.

XXVII. And it is hereby enacted, that the Directors of the said Bank of Bengal shall not discount any Negotiable Securities which shall have a longer period to run than three months, or lend any money for a longer period than three months, and that they shall make no loan or advance on any Bank Share or Certificate of Shares, nor on mortgage, or in any other manner on the security of any Lands, Houses, or immoveable property, nor on any Negotiable Security of any individual or partnership firm, which shall not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership, nor be in advance at one and the same time to any individual or partnership firm either by way of discount, loan, or in any other manner (saving by loans upon the deposit of Government Securities, or Goods not perishable as hereinafter mentioned) beyond the amount of three lakhs of Company's Rupees. Provided always that advances upon Bills of Exchange accepted by the Government, or upon other Government Obligations shall not be considered as an advance within the meaning of this restriction.

XXVIII. And

XXVIII. And it is hereby enacted, that the Directors of the said Bank shall make no loan other than such loans as are described in the Section next preceding, except on deposit of Public Securities to the full amount of the loan, and which Public Securities shall be so endorsed or transferred as to put them at the absolute disposal of the said Bank of Bengal, or on deposit of Goods, not of a perishable nature, and of estimated value exceeding the amount of the loan by at least one-fourth.

XXIX. And it is hereby enacted, that the said Bank shall not be at any time in advance to the Government more than seven lakhs and a half of Company's Rupees, provided always that the holding of Government Securities or of Bills of Exchange drawn upon the Government, or of other Government Acceptances or Obligations derived to the said Bank from individuals and not overdue shall not be construed as being in advance to the Government within the meaning of this Section.

XXX. And it is hereby enacted, that the Directors of the said Bank of Bengal shall not suffer any person or persons, or body corporate, keeping cash with the said Bank of Bengal, to overdraw his, her or their account.

XXXI. And it is hereby enacted, that the said Bank of Bengal may issue Promissory Notes, payable either on demand or at a date not exceeding thirty days after sight, which Notes shall and may be signed on behalf of the said Bank by such person as the Directors of the said Bank may appoint or authorize in that behalf, provided always that the total amount of such Notes in circulation at any one time shall not exceed two crores of Rupees, and provided also that no such Note shall be for a smaller amount than ten Rupees.

XXXII. And

XXXII. And it is hereby enacted, that it shall not be lawful for the said Bank to make, issue or negotiate any Note, Bill or other instrument containing any promise, undertaking or order for the payment of money elsewhere than within the limits of India.

XXXIII. And it is hereby enacted, that it shall be lawful for the Directors of the said Bank of Bengal to receive in deposit Goods not of a perishable kind, and to contract for the safe keeping of the same.

XXXIV. And it is hereby enacted, that the Directors of the said Bank shall cause the books of the said Bank to be balanced on the 30th day of June and the 31st of December in every year, and that a settlement of the balance on every such day, signed by a majority of the said Directors, shall be forthwith transmitted to one of the Secretaries to the Governor General of India in Council, and that the Governor General of India in Council shall at all times be entitled to require of the said Directors any information touching the affairs of the Bank, and the production of any documents of the said Bank, and that the said Directors shall comply with every such requisition.

XXXV. And it is hereby enacted, that an account of the profits of the said Bank shall be taken half yearly on the 1st day of January and the 1st day of July in every year, and that a dividend thereof shall be made so soon thereafter as conveniently may be, and that the amount of such dividend shall be determined by the Directors of the said Bank on the ground of the actual profits made by the said Bank during the six calendar months preceding the day up to which such half yearly account shall be taken, provided that the said Directors, subject to the control and sanction of the Proprietors at their General Meetings, shall have power when they see fit to set apart from such profits a sum not exceeding five per cent. on the Capital Stock of the Bank as a reserve against contingencies.

XXXVI. And

XXXVI. And it is hereby enacted, that on the first Monday of the month of August in every year, a General Meeting of the Proprietors of the Capital Stock of the said Bank shall be held, at which the Directors of the said Bank shall submit to the said Proprietors a statement of affairs of the said Bank, made up to the preceding 30th of June, and such General Meeting shall be competent to pass resolutions, and frame rules and directions relative to affairs and conduct of the said Bank which shall be binding on the Directors and Officers of the Bank, and on the Proprietors thereof, until rescinded or modified respectively by any subsequent General Meeting.

XXXVII. And it is hereby enacted, that any three of the said Directors of the said Bank, or any ten Proprietors of the Capital Stock of the said Bank, may at any time convene a General Meeting of the Proprietors upon giving fifteen days previous notice of such Meeting, and of the purpose or purposes for which the same shall be convened as well to the Directors of the said Bank for the time being, as also by public advertisement in the *Calcutta Gazette*.

XXXVIII. And it is hereby enacted, that it shall be lawful for the Bank of Bengal, with the sanction of the Governor General of India in Council, to establish Branch Banks at such places, and under such rules and restrictions as shall be determined by the Proprietors at their General Meetings, provided however, that such Branch Banks when so established, besides being subject to the rules and restrictions that may be imposed by the Proprietors, and to the control and orders of the Directors of the Bank at Calcutta, shall be bound by the same rules as to the description of business in which they are to engage and the manner of conducting such business, and likewise in respect to the issue of notes payable on demand and the retention of cash to meet the same, and in all transactions and matters herein above referred to, as are prescribed for the Bank of Bengal by this Act.

XXXIX. And

XXXIX. And it is further enacted, that if any of the said Proprietors shall become indebted to the said Bank it shall be lawful for the said Bank to withhold payment of the dividends on the share or shares of such Proprietor registered as his or her own property, and not as held in trust, or as executor, or administrator, until payment of such debt, and to apply such dividends towards payment thereof, and that after demand and default of payment and notice in that behalf given either to such Proprietor, or his or her constituted Agent, or by public advertisement in the *Calcutta Gazette*, it shall be lawful for the said Bank to refuse registration of the transfer of any such share or shares of such Proprietor, until payment of such debt; and if the same shall remain unpaid for the space of six months after such notice, to advertise for public sale, and to sell such share or shares or so many as may be necessary, and to apply the proceeds thereof towards payment of such debt with interest at the rate of six per cent. per annum, paying over the surplus, if any, to such Proprietor, or to his or her lawful representative.

XL. And it is further enacted, that the said Bank shall continue as hereby constituted until the 1st day of May, which will be in the year of Our Lord 1846, and shall thereafter continue in like manner until duly dissolved or modified, provided however, that after the said 1st day of May 1846, the said Bank shall not, except upon the application or by the consent of the Proprietors of the said Bank be dissolved, or anywise modified without previous notice of twelve months at the least being given to the Directors of the said Bank for the time being of such intended dissolution or modification, provided also that in the event of the said Bank at any time suspending cash payments, the benefits granted to the said Bank by the present Act of Incorporation shall be thenceforth forfeited.

Calcutta: 1839.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. IX. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 15th April, 1839.

I. IT is hereby enacted, in addition to the Rules already in force for instituting suits *in formâ pauperis*, that no person shall be hereafter entitled to institute any suit *in formâ pauperis*, in any Civil Court of Judicature within the Territories subject to the Presidency of Fort William in Bengal, unless the Court in which his petition may be presented shall, before granting such petition, be satisfied by the examination of the petitioner, or of his or her agents or witnesses, (which examination shall be taken on oath, or solemn affirmation in cases where a solemn affirmation may be received instead of an oath,) that there is probable cause for instituting the suit.

II. And it is hereby enacted, that in all suits instituted *in formâ pauperis* the pleadings on the part of the defendant as well as all papers filed on his part on which a stamp is required by Schedule B. of Regulation X. of 1829 of the Bengal Code, may be written on unstamped paper, and copies of orders or proceedings which the defendant may be required to take shall be furnished to him on unstamped paper; and the defendant shall not be required to deposit Vakeel's fees; provided always that on the conclusion of the suit the Court shall calculate the whole of the costs which would have been incurred by the defendant on account of stamp duties if the suit had not been instituted *in formâ*

formâ pauperis, and shall charge the same to the party cast, or to the parties respectively, in such proportions as may be deemed reasonable.

III. And it is hereby provided, that nothing in this Act contained shall be construed to extend to any suits instituted *in formâ pauperis*, in any of Her Majesty's Courts of Justice.

Calcutta, 1839:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

Rec'd 20th May 1839.

ACT No. XI. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 22d April, 1839.

I. IT is hereby enacted, that from the time of the passing of this Act, no Stamp duty or Institution fee shall be payable in respect of any proceeding in any Appeal, or in respect of any paper or copy of any paper necessary for any Appeal from any Court of the East India Company to Her Majesty in Council.

Calcutta, 1839:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

(No 24 June 1839.—

ACT No. XIII. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 20th May, 1839.

I. IT is hereby enacted, that the several charges of the port and roadstead of Madras, levied under the heads of Anchorage duty, Light House duty, Regular Boat hire and Report Catamaran hire, shall from and after the first day of August next be consolidated and commuted into a Port duty to be levied at the rate of three Annas per Ton upon every Vessel, not being a vessel sailing under the colours of a Foreign European, or American nation of which the Tonnage shall not exceed 700 tons by measurement made in the manner prescribed by Act 5 and 6 of William IV. Cap. LVI. and if the vessel exceed 700 tons by measurement so made, the Port duty shall be levied as upon that tonnage.

II. And it is hereby enacted, that upon every vessel sailing under the colors of a Foreign European, or American nation, that may anchor in the Port of Madras, there shall be levied a consolidated Port duty at the rate of three Annas six Pie per ton, according to measurement made in the manner above prescribed.

III. And it is hereby enacted, that if any vessels, British, Native or Foreign, anchoring in the Port of Madras, shall not break bulk therein, and shall

shall not remain four complete days from the time of dropping anchor, there shall be levied upon such vessels reduced duties as follows; that is to say, two-fifths of the tonnage duty prescribed above shall be levied upon every vessel which without breaking bulk shall after anchoring therein sail again out of the Port within forty-eight hours, and seven-tenths upon every vessel which without breaking bulk shall stay more than forty-eight hours and less than four complete days.

IV. And it is hereby enacted, that all powers and authorities, penalties and other means whereby the payment of any of the charges of the Port and Roadstead of Madras may have been legally enforced before the passing of this Act, shall be applicable to the enforcing of the consolidated and commuted Port duties imposed by virtue of this Act.

V. And it is hereby enacted, that it shall be lawful for the Government of India to order the consolidation and commutation of any Port or Harbour duties, as levied in any subordinate Port of any Presidency into a Tonnage duty, which shall be leviable at the rate and in the manner specified in the next following Section of this Act, upon the vessels anchoring in and trading with such Port.

VI. And it is hereby enacted, that when the Governor General of India in Council shall direct the Port duties to be commuted and consolidated at any Port of the Madras Presidency, other than that of Madras, or at any subordinate Port of any other Presidency, the total amount levied at such Port shall not exceed one Anna per ton for British and Native vessels not exceeding 700 tons, and upon vessels exceeding that measurement at the rate for 700 tons, and upon Foreign European, and American vessels, at the rate of one Anna four Pie per ton; and all vessels anchoring in any such outports shall be charged

charged with reduced duty, in the proportions above provided for the Port of Madras, if they leave such Port without breaking bulk before completing four entire days from the time of anchoring therein.

VII. And it is hereby enacted, that the consolidated and commuted Port duties above prescribed, when ordered to be levied in any Port by the Governor General of India in Council shall be levied by the Officer appointed by the Government of the Presidency within which the Port is situate to give Port Clearances or other customary documents to vessels sailing from such Port, that is to say, by the Master Attendant, or by the Collector of Customs at such Port, as may be ordered by such Government, and if such duties be not paid upon demand, it shall be competent to such Officer to withhold from the vessel on account of which payment may be refused, any Port Clearance or other customary document required to be possessed by ships leaving such Port until the same shall be paid.

VIII. And it is hereby enacted, that all the powers and authorities, penalties and other means by which any Port or Harbour duty of any subordinate Port of any Presidency which shall be consolidated, and commuted by virtue of this Act may have been legally enforced before the consolidation and commutation thereof as hereinbefore provided, shall be applicable to the enforcing of the consolidated and commuted duties at such Port imposed by virtue of this Act.

Calcutta, 1839.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XIV. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 27th May, 1839.

I. IT is hereby enacted, that Acts No. XXXII. of 1837 and No. V. of 1837 be repealed on the first day of July next.

II. And it is hereby enacted, that on and after the said first day of July next, every person who shall make with any Native of India any contract for labor to be performed in any British or Foreign Colony without the Territories of the East India Company, or who shall knowingly abet or aid any Native of India in emigrating from the said Territories for the purpose of being employed as a laborer, shall be liable, on conviction before a Magistrate or Justice of the Peace, to a fine not exceeding two hundred Rupees for every Native so contracted with, aided or abetted, and in default of payment of such fine, shall be liable to be imprisoned for a term not exceeding three months.

III. Provided always, that nothing in this Act contained shall be taken to apply to any Native Seaman who shall of his own free will contract to navigate any Vessel, or who shall embark on board such Vessel in pursuance of such contract, or to any person who shall contract to serve as a Menial Servant only, or who shall embark as such Menial Servant.

Calcutta 1839:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XVII. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 1st July, 1839.

IT is hereby enacted, in modification of so much of Sections VI. and XIV. of Act No. XVII. of 1837, as provides that Postage Duties shall be levied at the rates set forth in Schedules A and B appended to the said Act, that it shall be competent to the Governor General of India in Council, by an order and notice to be published in the Government Gazettes of the several Presidencies of India, to authorize the levy of Postage Duties at rates different from those severally specified in the Schedules A and B annexed to Act XVII. 1837, and to publish revised Schedules from time to time to give effect to such modifications; provided always there be no increase made thereby in any particular of the rates prescribed in the said Schedules A and B; and likewise to fix the time when the levy shall commence to be made at such modified rates, and to cancel or modify any order and notice so issued by further similar order and notice, and the said revised Schedules of rates shall, for so long as may be so ordered and notified, be of the same effect and validity as the Schedules annexed to the said Act.

Calcutta, 1839:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XVIII. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 15th July, 1839.

IT is hereby enacted, that any person accused of the offence of murder by Thuggee, or of the offence of unlawfully and knowingly receiving or buying property stolen or plundered by Thuggee, may be tried by any Court which would have been competent to try him if his offence had been committed within the Zillah where that Court sits, anything contained in any Regulation or Regulations to the contrary notwithstanding.

Calcutta, 1839:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXI. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 26th August, 1839.

AN Act for the trial of prisoners charged with the commission of certain petty offences in the Town of Calcutta and on the River Hooghly.

I. Whereas it is expedient to make further provision in regard to such charges of felony as have been usually determined by Justices of the Peace, under the authority of the Bye-Laws for the Town of Calcutta; by preventing, as far as is consistent with the attainment of justice, any delay of trial, or inconvenience to prosecutors, witnesses and jurymen; by limiting the powers heretofore exercised by such Justices; and by subjecting their proceedings upon convictions for felony to more regular control and revision: and whereas it is also expedient to provide the like remedy in cases of assaults committed in certain parts of the River Hooghly without the limits of the Town of Calcutta as hath been provided in cases of assaults committed within such limits:

It is, therefore, hereby enacted, that it shall not be lawful for any Justices or Justice of the Peace to sentence any person charged with the commission of any felony within the Town of Calcutta, or with the possession of stolen property within the same Town, by virtue of any Bye-Law for the Town of Calcutta, or by virtue of such Bye-Law and under Act IV. of 1835, or otherwise than according to the Provisions of this Act; and the Sixth Section of a certain

Rule

ACT No. XXI. OF 1839.

Rule Ordinance and Regulation entitled a Rule Ordinance and Regulation for the good order and Civil Government of the Settlement of Fort William in Bengal, passed in Council on the 26th day of July in the Year of Our Lord 1814, and Registered in the Supreme Court on the 11th day of November in the same year, is hereby repealed.

II. And it is hereby declared and enacted, that all persons charged with the commission of simple larceny within the Town of Calcutta may be tried by any Justice of the Peace for the said Town, provided the value of the property which the prisoner is charged with having stolen does not, according to the belief of such Justice, exceed twenty rupees.

III. And it is hereby provided, that such Justice of the Peace shall not have power to sentence any such person to be imprisoned with or without hard labor for a longer period than six calendar months, or to be transported.

IV. And it is hereby provided, that it shall be lawful for any Justice of the Peace before whom any person is charged with the commission of any simple larceny, at his discretion, instead of trying such person himself, to commit such person for trial before Her Majesty's Supreme Court of Justice in Calcutta.

V. And it is hereby enacted, that every such Justice, after trying any offender charged with the commission of a simple larceny, shall cause his judgment to be drawn up in the following form of words, or in such other form of words to the same effect as the case shall require, that is to say:

Be it remembered that on the day of in the Year of Our Lord at Calcutta, A. B. is (acquitted, or convicted) before me J. P. a Justice of the Peace for the Town

Town of Calcutta, on a charge of simple larceny, for that he the said A. B. did feloniously (here specify the alleged offence and the time and place when and where the same was committed, as the case may be) and I the said J. P. believe the value of the property stolen to amount to a sum not exceeding twenty rupees, that is to say —— rupees, and I the said J. P. adjudge the said A. B. (here state that the prisoner is to be discharged, or the punishment he is to suffer, as the case may be.)

Given under my hand, the day and year first above named.

(Signed) ——————

VI. And it is hereby enacted, that once at least in every Term, and oftener if required by Her Majesty's Supreme Court of Justice at Calcutta, every such Justice shall transmit to Her Majesty's said Supreme Court of Justice all judgments whether of acquittal or conviction passed by him, together with the depositions and examinations of the witnesses and prisoners, there to be kept by the proper officer among the records of the Court.

VII. And it is hereby enacted, that upon the trial of any prisoner for simple larceny as aforesaid, every such Justice of the Peace shall require the witnesses against and on behalf of the prisoner to be sworn, or to make solemn affirmation in cases where an affirmation is by law permitted in the place of an oath, and shall cause the depositions of the witnesses and the examination of the prisoner to be reduced into writing, and every such deposition and examination shall be signed by such Justice.

VIII. And it is hereby enacted, that upon the trial of any person charged with the commission of simple larceny before any such Justice of the Peace as aforesaid, if any person being duly summoned by such Justice shall refuse to attend

attend as a witness, or to give evidence, he shall be liable to be punished by Her Majesty's Supreme Court of Justice at Calcutta in like manner as if he had refused to attend as a witness or to give evidence before Her Majesty's said Supreme Court of Justice.

IX. And it is hereby enacted, that upon any conviction for simple larceny as aforesaid, the Justice of the Peace before whom any person shall be so committed shall have power to order the restitution of the property stolen, if forthcoming, to the owner or his representative, and in case of its not being restored pursuant to such order, to impose on any person refusing or neglecting to restore the same a fine not exceeding twenty rupees, and in default of payment to adjudge the person guilty of such neglect or refusal to be imprisoned for the space of one calendar month unless the property be sooner restored.

X. And it is hereby enacted, that all persons charged with the commission of any assault or battery on board of any Merchant Ship employed on Sea Voyages, in the River Hooghly, or the mouths thereof, being part of the Territories of the East India Company, may be tried before any such Justice of the Peace, and on conviction shall be liable to be punished by a fine not exceeding one hundred rupees, to be levied and enforced in manner provided by Act II. of 1839. And all the Provisions of this Act made in the case of charges of simple larceny shall, as far as they are applicable, be applied in the case of such charges of assault or battery as aforesaid.

XI. And it is hereby declared, that nothing in this Act contained shall be construed to affect the remedy of any person aggrieved by the conviction of any Justice of the Peace through the means of the Writ of Certiorari.

Calcutta, 1839:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXII. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council, on the 9th September, 1839.

AN Act for enabling persons charged with offences to make their defence more effectually.

I. Whereas it is expedient to extend to the territories under the Government of the East India Company, the provisions of the Statute 6th and 7th William IV. Chapter CXIV:

It is therefore hereby enacted, that all persons tried for any offence in any of Her Majesty's Courts of Justice shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto by Counsel learned in the law, or by Attorney in Her Majesty's Courts of Justice where Attorneys may practise as Counsel.

II. And it is hereby declared and enacted, that in all cases of summary conviction by a Magistrate or Justice of the Peace, exercising jurisdiction within the limits of any of Her Majesty's Supreme Courts, persons accused are and shall be admitted to make their full answer and defence and to have all witnesses examined and cross-examined by Counsel or Attorney.

III. And

III. And it is hereby enacted, that all persons who after the passing of this Act shall be held to bail, or committed to prison, for any offence against the law for which they are to be tried before any of Her Majesty's Courts of Justice shall be entitled to require and have on demand (from the person who shall have the lawful custody thereof, and who is hereby required to deliver the same) copies of the examinations of the witnesses respectively, upon whose depositions they have been so held to bail or committed to prison on payment of a reasonable sum for the same to be fixed by such Courts respectively. Provided always that if such demand shall not be made before the day appointed for the commencement of the Sessions at which the trial of the person on whose behalf such demand shall be made is to take place, such person shall not be entitled to have any copy of such examination of witnesses unless the Judge at such trial shall be of opinion that such copy may be made and delivered without delay or inconvenience to such trial; but it shall nevertheless be competent to such Judge, if he shall think fit, to postpone such trial on account of such copy of the examination of witnesses not having been previously had by the party charged.

IV. And it is hereby enacted, that all persons under trial in any of Her Majesty's Courts of Justice shall be entitled, at the time of their trial, to inspect, without fee or reward, all depositions or copies thereof which have been taken against them, and returned into the Court before which such trial shall be had.

Calcutta, 1839:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXVI. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council on the 2d December, 1839.

AN Act for regulating inquiries into the truth of matters implicating the public conduct of Officers not removable without the sanction of Government within the Presidency of Fort William in Bengal.

I. Whereas it is expedient to consolidate the enactments contained in the Regulations concerning inquiries into the truth of matters implicating the public conduct of European Officers, and to amend the same in various particulars, and to extend the same to all Officers not removable without the sanction of Government:

It is hereby enacted, that such parts of Section 10, Regulation V. of 1793, and of Section 10, Regulation IV. of 1803 as relate to charges of Corruption;

Section 8, Regulation VI. of 1793;

Section 8, Regulation V. of 1803;

Clauses 9, 10, and 11, and such other parts of Section 9, Regulation XIII. of 1793 as relate to Covenanted Servants of the Company;

Clauses

Clauses 9, 10, and 11, and such other parts of Section 12, Regulation XII. of 1803 as relate to Covenanted Servants of the Company;

Section 4 and all the following Sections of Regulation VIII. of 1806;

Regulation X. of 1806, excepting so much of Section 10 of that Regulation as relates to Security required from persons preferring charges against Hindoo or Mahomedan Law Officers, or Native Ministerial Officers of Courts;

Regulation XVII. of 1813;

Regulation VIII. of 1817;

And Sections 5 and 6 of Regulation VIII. of 1825; of the Bengal Code;

Together with so much of any Regulations as extends any of the above Regulations or parts of Regulations to any places within the Presidency of Fort William in Bengal; be repealed.

II. And it is hereby enacted, that in the Territories subject to the Presidency of Fort William in Bengal, whenever either of the Courts of Sudder Dewanny and Nizamut Adawlut, either of the Sudder Boards of Revenue, or the Board of Customs, Salt and Opium, shall be of opinion that substantial grounds exist for making a regular and formal inquiry into the truth of any imputation of Official misconduct affecting any Officer subject to their controul respectively, and not removable without the sanction of Government, they shall submit the documents on which their opinion may be founded, together with a statement of the charges reduced to distinct articles which they may propose to be made the subject of a regular investigation, to the Governor of Bengal, or to the

the Lieutenant-Governor of the North Western Provinces, or to any functionary exercising the authority of Government in the North Western Provinces, as the case may be, according to the authority to which they may be subject, for his consideration and orders.

III. And it is hereby enacted, that any charge or information, of the description aforesaid, may be preferred direct to either of the Courts of Sudder Dewanny and Nizamut Adawlut, either of the Sudder Boards of Revenue, or the Board of Customs, Salt and Opium, respectively, who shall examine the complainant or informant circumstantially upon oath, or upon solemn affirmation if he be entitled to be exempted from taking an oath, and require the party accused to explain or reply to any matters they may deem to need explanation and make such further inquiries, upon oath or affirmation upon the subject as they may judge proper.

IV. And it is hereby enacted, that any charge or information may also be made before any Judge, Magistrate, Commissioner of Revenue, or Collector, for any acts of the description beforementioned committed within their jurisdiction, respectively, who shall examine the complainant or informant circumstantially upon oath, or upon solemn affirmation if he be entitled to be exempted from taking an oath, and shall transmit the deposition so taken to the Sudder Dewanny and Nizamut Adawlut, the Sudder Board of Revenue, or the Board of Customs, Salt and Opium, according as the person accused may be subject to those Authorities respectively.

V. And it is hereby provided, that it shall not be lawful for the Courts of Sudder Dewanny and Nizamut Adawlut, or the said Boards, respectively, to act upon any such charge or information, unless the person preferring the same shall make oath, or solemn affirmation in case he be entitled to be exempted from

from taking an oath, that he believes the facts on which the charge is grounded to be true.

VI. And it is hereby provided, that it shall be lawful for the Courts of Sudder Dewanny and Nizamut Adawlut, and for the said Boards, respectively, to dismiss any such charge or information, where they do not see any substantial reason for entering further into the inquiry. Provided, that on every occasion when they shall dismiss any such charge or information, they shall submit the same, together with all the circumstances of the case, in like manner as is provided in Section II of this Act.

VII. And it is hereby provided, that the said Courts of Sudder Dewanny and Nizamut Adawlut, and the said Boards, respectively, may, at any stage of the inquiry into such matters as aforesaid, require the person preferring such charge or information as aforesaid to furnish such security as may be deemed reasonable that he will attend and prosecute the charge to a conclusion, and in the event of security being so required all proceedings shall be stayed until the same shall be furnished accordingly.

VIII. And it is hereby provided, nevertheless, that if any matter of the nature aforesaid affecting such Officer as is mentioned in the second Section of this Act shall appear in the course of any proceedings, whether preliminary or otherwise, which shall come before or be reported to either of the Courts of Sudder Dewanny and Nizamut Adawlut, or any of the said Boards, respectively, those authorities shall act upon such matter, or institute such inquiry upon oath or affirmation as aforesaid into the same as they shall deem proper for the purpose of such reference as aforesaid to the Governor of Bengal, or to the Lieutenant-Governor of the North Western Provinces, or to the Authority exercising the powers of Government in those Provinces as aforesaid, although no charge

charge or information be preferred as aforesaid; and in such cases it shall not be necessary, before acting upon or instituting any inquiry concerning any matter so appearing in the course of proceedings, to require any oath or affirmation in regard to the truth of such matter.

IX. And it is hereby enacted, that if the Governor of Bengal, or the Lieutenant-Governor of the North Western Provinces, or the Authority exercising the powers of Government in those Provinces as aforesaid, upon such reference as is mentioned in the second Section of this Act, shall concur with the Authority by which it may be submitted, or if such Governor or Lieutenant Governor or Authority exercising the powers of Government shall from information of the description aforesaid that may be laid before him in respect to such Officers as aforesaid not directly subject to the Courts or Boards above named, deem it necessary to institute proceedings against any such Officers, he shall appoint a Commissioner or Commissioners for making a regular and formal inquiry into the truth of the matters referred.

X. And it is hereby enacted, that on the appointment of every such Commission, the said Governor, or Lieutenant-Governor, or Authority exercising the powers of Government in the North Western Provinces, shall direct whether the Commission shall be placed under the control of any of the Authorities aforesaid, or shall act immediately under the authority of Government, and all Commissions appointed as aforesaid shall be guided by the instructions which they may receive in this behalf from the Government to which they may be respectively subordinate.

XI. And it is hereby enacted, that the Commissioner or Commissioners appointed as aforesaid, before entering on the discharge of his or their duties, shall take the following oath:—

I, A. B.,

I, A. B., Commissioner for the purpose of (here state the object of the Commission) do solemnly swear that I will faithfully and impartially perform the duty committed to me without fear, favor, or bias, to the best of my ability, knowledge, and judgment; so help me God.

XII. And it is hereby enacted, that whenever a charge shall be referred for investigation to a Special Commission, the said Governor, or Lieutenant-Governor, or Authority exercising the powers of Government in the North Western Provinces, will determine whether the conduct of the prosecution shall be left to the accuser, or be undertaken on the part of Government. In the latter case, the said Governor, or Lieutenant-Governor, or Authority exercising the powers of Government in the North Western Provinces, will nominate such person or persons as may be deemed proper, to conduct the prosecution on behalf of Government.

XIII. And it is hereby enacted, that it shall be the duty of Commissioners appointed under this Regulation, after receiving the plaint or charge, and the documents from which the same may have been prepared, to call upon the person accused for his reply to the accusation; to examine upon oath, or under a solemn declaration, the witnesses named by the accuser or the accused; to receive any further written documents offered in support of, or against the accusation; and to call for and take any further requisite evidence which may be indicated by the witnesses adduced or documents exhibited by either party, and may appear to be necessary for the ascertainment of facts, or the discovery of the truth or falsehood of the charges, or of any part thereof.

XIV. And it is hereby enacted, that for the discharge of the duties specified in the preceding Section, or any other functions which may be delegated to a Commission under this Regulation, such Commission shall be vested

vested with the same powers as are exercised by the Zillah and City Courts, except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through the Zillah or City Judge in whose jurisdiction the Commission may be held, and executed by the Zillah or City Judge in whose jurisdiction the witness or other person upon whom the process is to be served may reside.

XV. And it is hereby enacted, that on the close of the evidence for the prosecution and defence, the accused shall be at liberty to record any observations upon the result of the inquiry which he may think necessary for the vindication of his conduct and character. The accuser, or the person appointed to conduct the prosecution on the part of Government, shall also be at liberty to record any remarks on the subject of the prosecution which he may deem requisite.

XVI. And it is hereby enacted, that as soon after the conclusion of the proceedings as circumstances shall permit, the Commissioner or Commissioners shall, when the Commission shall be instructed to act immediately under the authority of Government, submit directly to the Government to which he or they may be subordinate, and in other cases to the Controlling Court or Board, the proceedings under the Commission, accompanied by translations of papers not in the English language, together with a summary of the pleadings and evidence, and his or their opinion of the merits of the case.

XVII. And it is hereby provided, that it shall be lawful for the said Governor, Lieutenant-Governor, or Authority exercising the powers of Government in the North Western Provinces, or the Controlling Court or Board, upon consideration of the report of any such Commission as aforesaid, to direct the Commissioner or Commissioners to take further evidence, or to give

give further explanation of his or their opinion or opinions connected with the case investigated, and the Commissioner or Commissioners are authorized and required to take such further evidence, and to give such further explanation.

XVIII. And it is hereby enacted, that the Sudder Dewanny and Nizamut Adawlut, or the Board to which any report of a Commissioner or Commissioners may be submitted as aforesaid, after due consideration of the same, and after obtaining such further evidence or explanations as they may require, shall submit the whole of the proceedings and documents received by them to the Government to which they may be subordinate, together with their opinion whether any and what charges have been established against the accused.

XIX. And it is hereby provided, that whenever a Special Commission may be appointed under the Provisions of this Act, the said Governor, or Lieutenant-Governor, or Authority exercising the powers of Government in the North Western Provinces will determine, on a view of the nature and circumstances of the case, whether the accused Officer shall be suspended from the discharge of the functions of his office; and if so, whether he shall be permitted to draw the established allowances of his office, or otherwise.

XX. And it is hereby provided, that the Governor, or Lieutenant-Governor, or Authority exercising the powers of Government in the North Western Provinces, on consideration of the report and proceedings submitted to him, in pursuance of Sections XVI and XVIII of this Act, will pass such decision on the case as may appear to him most consonant to the principles of justice, and consistent with the powers possessed by Government in matters of this description; and in the event of his deeming it necessary that the party accused should be brought to trial, by a public prosecution before a competent Court of Law, will issue the necessary instructions for that purpose to the Law Officers

Officers of Government. But whatever proceedings may be held, or whatever decision or order may be passed by Government, individuals deeming themselves aggrieved by any public Officer will be at all times at liberty to seek redress according to the ordinary forms prescribed by Law.

XXI. And it is hereby enacted, that nothing in this Act contained shall be construed to repeal the provisions respecting the dismissal and suspension of Principal and other Sudder Ameens contained in Section XXVI of Regulation V of 1831, or the provisions respecting the dismissal of Deputy Collectors contained in Section XXV of Regulation IX of 1833. Provided always that it shall be lawful for the Governor of Bengal, or the Lieutenant-Governor of the North Western Provinces, or the Authority exercising the powers of Government in these Provinces, respectively, upon any such reference as is mentioned in Section XXVI of Regulation V of 1831, and Section XXV of Regulation IX of 1833, at his discretion, to appoint a Commissioner or Commissioners for making such regular and formal inquiry touching imputations of official misconduct affecting any Principal or other Sudder Ameen or any Deputy Collector as he shall think fit, in manner as is directed by this Act, and subject to its provisions.

Calcutta, 1839:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXVII. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council on the 16th December, 1839.

AN Act for authorizing the Court of Requests for the Town of Calcutta to execute decrees passed by the Judge of the Dewanny Adawlut of the Zillah of the 24-Pergunnahs in certain cases.

I. Whereas execution of the decrees of the Courts of Justice of the Zillah of the 24-Pergunnahs is often defeated by the parties against whom the same have been obtained absconding from the limits of the said Zillah into the Town of Calcutta; and whereas by Regulation XVI of 1812 of the Bengal Code, provision is made, where the like inconvenience occurs by parties absconding from the Town of Calcutta into the said Zillah, for the Judge of the said Zillah enforcing the judgments of the Court of Requests of the Town of Calcutta:

It is hereby enacted that if the defendant in any suit decided by any Court of Justice of the Zillah of the 24-Pergunnahs the plaintiff in which shall have obtained a decree, shall retire before execution of the same into the jurisdiction of the Court of Requests, that Court, upon receiving a written application from the Judge of Dewanny Adawlut of the Zillah of the 24-Pergunnahs, setting forth the above circumstances, and accompanied by a copy of the decree duly authenticated,

authenticated, is hereby authorized and directed to proceed to execute the said decree in the mode prescribed for the execution of judgments obtained in the Court of Requests, and on payment of the like costs as are demanded for the execution of such judgments in ordinary cases. Provided always, that nothing in this Act contained shall be held to authorize the said Court of Requests to execute any decree except the cause of action in respect of which such decree was obtained were such that if it had occurred within the local jurisdiction of the said Court it would have been cognizable by the same.

Calcutta, 1839:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXIX. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council on the 16th December 1839.

AN Act for the Amendment of the Law relating to Dower.

I. Whereas it is expedient to extend the Amendments in the English Law of Dower contained in the Statute 3d and 4th William IV Chapter CV to the Territories of the East India Company in cases which, but for the passing of this Act, would be governed by the English Law of Dower as it existed previously to the passing of the aforesaid Statute:

Meaning of the words in the Act.

It is hereby enacted, that the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; that is to say, the word "Land" shall extend to Messuages, and all other Hereditaments, whether Corporeal or Incorporeal (except such as are not liable to Dower), and to any share thereof, and every word importing the singular number only

only shall extend and be applied to several persons or things as well as one person or thing.

Widows to be entitled to Dower out of equitable Estates.

II. And it is hereby further enacted, that when a Husband shall die, beneficially entitled to any Land for an interest which shall not entitle his Widow to Dower out of the same at Law, and such interest, whether wholly equitable, or partly legal and partly equitable, shall be an Estate of inheritance in possession, or equal to an Estate of inheritance in possession, (other than an Estate in joint-tenancy,) then his Widow shall be entitled in Equity to Dower out of the same Land.

Seisin shall not be necessary to give title to Dower.

III. And it is hereby further enacted, that when a Husband shall have been entitled to a right of entry or action in any Land and his Widow would be entitled to Dower out of the same if he had recovered possession thereof, she shall be entitled to Dower out of the same although her Husband shall not have recovered possession thereof; provided that such Dower be sued for or obtained within the period during which such right of entry or action might be enforced.

No Dower out of Estates disposed of.

IV. And it is hereby further enacted, that no Widow shall be entitled to Dower out of any Land which shall have been absolutely disposed of by her Husband in his life time, or by his Will.

Priority to partial Estates, Charges and Specialty Debts.

V. And it is hereby further enacted, that all partial Estates and Interests, and all charges created by any disposition or Will of a Husband, and all debts, incumbrances, contracts, and engagements

engagements to which his Land shall be subject or liable, shall be valid and effectual as against the right of his Widow to Dower.

Dower may be barred by a Declaration in a Deed.

VI. And it is hereby further enacted, that a Widow shall not be entitled to Dower out of any Land of her Husband, when in the Deed by which such Land was conveyed to him, or by any Deed executed by him, it shall be declared that his Widow shall not be entitled to Dower out of such Land.

Or by a declaration in the Husband's Will.

VII. And it is hereby further enacted, that a Widow shall not be entitled to Dower out of any Land of which her Husband shall die wholly or partially intestate when by the Will of her Husband, duly executed for the devise of Freehold Estates, he shall declare his intention that she shall not be entitled to Dower out of such Land or out of any of his Land.

Dower shall be subject to restrictions.

VIII. And it is hereby further enacted, that the right of a Widow to Dower shall be subject to any conditions, restrictions or directions which shall be declared by the Will of her Husband, duly executed as aforesaid.

Devise of real Estate to the Widow shall bar her Dower.

IX. And it is hereby further enacted, that where a Husband shall devise any Land out of which his Widow would be entitled to Dower if the same were not so devised, or any Estate or Interest therein, to or for the benefit of his Widow, such Widow shall not be entitled to Dower out of or in any Land of her said Husband, unless a contrary intention shall be declared by his Will.

X.

Bequest of Personal Estate to the Widow shall not bar her Dower.

X. And it is hereby further enacted, that no Gift or Bequest made by any Husband to or for the benefit of his Widow of or out of his Personal Estate, or of or out of any of his Land not liable to Dower shall defeat or prejudice her right to Dower unless as contrary intention shall be declared by his Will.

Agreement not to bar Dower may be enforced.

XI. Provided always and it is hereby further enacted, that nothing in this Act contained shall prevent any Court of Equity from enforcing any covenant or agreement entered into by or on the part of any Husband not to bar the right of his Widow to Dower out of his Lands or any of them.

Legacies in bar of Dower still entitled to preference.

XII. And it is hereby further enacted, that nothing in this Act contained shall interfere with any rule of Equity, or of any Ecclesiastical Court by which Legacies bequeathed to Widows in satisfaction of Dower are entitled to priority over other Legacies.

Certain Dowers abolished.

XIII. And it is hereby further enacted, that no Widow shall hereafter be entitled to Dower ad ostium ecclesiæ or Dower ex assensu patris.

Act not to take effect before the 1st July 1840.

XIV. And it is hereby further enacted, that this Act shall not extend to the Dower of any Widow who shall have been or shall be married on or before the First day of July One Thousand Eight Hundred and Forty, and shall not give to any Will, Deed, Contract, Engagement, or Charge executed, entered into, or created before the said First day of July One Thousand Eight Hundred

Hundred and Forty, the effect of defeating or prejudicing any right to Dower.

XV. And it is hereby provided, that this Act shall not be construed to affect any right of property in Land otherwise than by modifying the Law of Dower in cases governed by the English Law of Dower, or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

Calcutta; 1840.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXX. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council on the 16th December, 1839.

AN Act for the amendment of the Law of Inheritance.

I. Whereas it is expedient to extend the amendments, in the English Law of Inheritance contained in the Statute 3d and 4th William IV. Chapter CVI. to the Territories of the East India Company in cases which, but for the passing of this Act, would be governed by the English Law of Inheritance as it existed previously to the passing of the aforesaid Statute:

Meaning of words in the Act.

It is hereby enacted, that the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say,) the word "Land" shall extend to Messuages, and all other Hereditaments, whether corporeal or incorporeal, and whether Freehold or of any other Tenure, and to Money to be laid out in the purchase of Land, and to Chattels and other personal property transmissible to Heirs, and also to any share of the same Hereditaments and Properties or any of them, and to any

"Land."

Estate

Estate of Inheritance or Estate for any Life or Lives, or other Estate transmissible to Heirs, and to any Possibility, Right, or Title of Entry or Action, and any other Interest capable of being inherited, and whether the same Estates, Possibilities, Rights, Titles, and Interests, or any of them, shall be in possession reversion, remainder, or contingency; and the words "the

"The Purchaser." Purchaser" shall mean the person who last acquired the Land otherwise than by descent, or than by any escheat, partition, or enclosure, by the effect of which the Land shall have become part of or descendible in the same manner as other Land acquired

"Descent." by descent; and the word "descent" shall mean the title to inherit Land by reason of consanguinity, as well where the Heir shall be an Ancestor or Collateral relation, as where he shall be

"Descendant." a child or other issue; and the expression "descendants" of any Ancestor shall extend to all persons who must trace their descent

"Person last entitled." through such Ancestor; and the expression "the person last entitled to Land" shall extend to the last person who had a right thereto, whether he did or did not obtain the possession or the receipt of the

"Assurance." Rents and Profits thereof; and the word "assurance" shall mean any Deed or Instrument other than a Will by which any Land shall be conveyed or transferred at Law or in Equity; and every

Number and Gender. word importing the singular number only, shall extend and be applied to several persons or things as well as one person or thing, and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

Descent shall always be traced from the Purchaser, but the last owner shall be considered to be the Purchaser, unless the contrary be proved.

II. And it is hereby further enacted, that in every case descent shall be traced from the Purchaser, and to the intent, that the pedigree may never be carried further back than the circumstances

circumstances of the case and the nature of the title shall require, the person last entitled to the Land shall, for the purposes of this Act, be considered to have been the Purchaser thereof unless it shall be proved that he inherited the same, in which case the person from whom he inherited the same shall be considered to have been the Purchaser, unless it shall be proved that he inherited the same, and in like manner the last person from whom the Land shall be proved to have been inherited shall in every case be considered to have been the Purchaser unless it shall be proved that he inherited the same.

Heir entitled under a Will, shall take as Devisee, and a limitation to the Granter or his Heirs shall create an Estate by Purchase.

III. And it is hereby further enacted, that when any Land shall have been devised by any Testator who shall die after the First day of July one thousand eight hundred and forty, to the Heir or to the person who shall be the Heir of such Testator, such Heir shall be considered to have acquired the Land as a Devisee and not by descent; and when any Land shall have been limited by any assurance executed after the said First day of July one thousand eight hundred and forty, to the Person or the Heirs of the Person who shall thereby have conveyed the same Land, such Person shall be considered to have acquired the same as a Purchaser by virtue of such assurance, and shall not be considered to be entitled thereto as his former Estate or part thereof.

Where Heirs take by Purchase under Limitations to the Heirs of their Ancestors, the Land shall descend as if the Ancestor had been the Purchaser.

IV. And it is hereby further enacted, that when any person shall have acquired any Land by Purchase under a limitation to the Heirs or to the Heirs of the body of any of his Ancestors, contained in an assurance executed after the said First day of July

July one thousand eight hundred and forty, or under a limitation to the Heir or to the Heirs of the body of any of his Ancestors, or under any limitation having the same effect, contained in a Will of any Testator who shall depart this life after the said First day of July one thousand eight hundred and forty, then and in any of such cases such Land shall descend, and the descent thereof shall be traced as if the Ancestor named in such limitation had been the Purchaser of such Land.

Brothers, &c. shall trace descent through their Parent.

V. And it is hereby further enacted, that no brother or sister shall be considered to inherit immediately from his or her brother or sister, but every descent from a brother or sister shall be traced through the Parent.

Lineal Ancestor may be Heir in preference to Collateral Persons claiming through him.

VI. And it is hereby further enacted, that every lineal Ancestor shall be capable of being Heir to any of his issue, and in every case where there shall be no issue of the purchaser, his nearest lineal Ancestor shall be his Heir in preference to any person who would have been entitled to inherit, either by tracing his descent through such lineal Ancestor, or in consequence of there being no descendant of such lineal Ancestor, so that the father shall be preferred to a brother or sister, and a more remote lineal Ancestor to any of his issue, other than a nearer lineal Ancestor or his issue.

The Male Line to be preferred.

VII. And it is hereby further enacted and declared, that none of the Maternal Ancestors of the person from whom the descent is to be traced, nor any of their descendants shall be capable of inheriting until all his Paternal Ancestors and their descendants

descendants shall have failed; and also that no female Paternal Ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male Paternal Ancestors and their descendants shall have failed; and that no female Maternal Ancestor of such person, or any of her descendants, shall be capable of inheriting until all his male Maternal Ancestors and their descendants shall have failed.

The Mother of more remote male Ancestor to be preferred to the Mother of the less remote male Ancestor.

VIII. And it is hereby further enacted and declared, that where there shall be a failure of male Paternal Ancestors of the person from whom the descent is to be traced, and their descendants, the mother of his more remote male Paternal Ancestors, or her descendants, shall be the Heir or Heirs of such person, in preference to the mother of a less remote male Paternal Ancestor, or her descendants; and where there shall be a failure of male Maternal Ancestors of such person, and their descendants, the mother of his more remote male Maternal Ancestor, and her descendants, shall be the Heir or Heirs of such person in preference to the mother of a less remote male Maternal Ancestor, and her descendants.

Half blood, if on the part of a male Ancestor, to inherit after the whole blood of the same degree, if on the part of a female Ancestor after her.

IX. And it is hereby further enacted, that any person related to the person from whom the descent is to be traced by the half blood shall be capable of being his Heir, and the place in which any such relation by the half blood shall stand in the order of inheritance, so as to be entitled to inherit, shall be next after any relation in the same degree of the whole blood, and his issue, where the common Ancestor shall be a male, and next after the common Ancestor where such common Ancestor shall be a female,

female, so that the brother of the half blood on the part of the father shall inherit next after the sisters of the whole blood on the part of the father and their issue, and the brother of the half blood on the part of the mother shall inherit next after the mother.

After the death of a person attainted, his descendants may inherit.

X. And it is hereby further enacted, that when the person from whom the descent of any Land is to be traced shall have had any relation, who, having been attainted, shall have died before such descent shall have taken place, then such attainder shall not prevent any person from inheriting such Land who would have been capable of inheriting the same by tracing his descent through such relation if he had not been attainted, unless such Land shall have escheated in consequence of such attainder before the First day of July one thousand eight hundred and forty.

Act not to extend to any descent before 1st July 1840.

XI. And it is hereby further enacted, that this Act shall not extend to any descent which shall take place on the death of any person who shall die before the said First day of July one thousand eight hundred and forty.

Limitations made before the 1st July 1840, to the Heirs of a person then living, shall take effect as if the Act had not been made.

XII. And it is hereby further enacted, that where any assurance executed before the said First day of July one thousand eight hundred and forty, or the Will of any person who shall die before that time, shall contain any limitation or gift to the Heir or Heirs of any person under which the person or persons answering the description of Heir shall be entitled to an Estate by purchase, then the person or persons who would have

have answered such description of Heir if this Act had not been made shall become entitled by virtue of such limitation or gift, whether the person named as Ancestor shall or shall not be living at the time aforesaid.

XIII. And it is hereby provided, that this Act shall not be construed to affect inheritances of Land, which are not subject to the English Law of Inheritance, or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

Calcutta, 1840:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXXI. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council on the 23d December, 1839.

AN Act for remedying certain defects in the Statute 9th George IV Ch. 74, relating to the Coin.

I. Whereas it is expedient to remedy certain defects in the Statute 9th George IV Ch. 74, of which the inconvenience is particularly experienced relating to injuries to the Coin:

It is hereby enacted, that if any person shall fraudulently clip, file, drill, deface, or debase any current gold or silver Coin issued from any Mint of the East India Company, or usually received as money in any part of the Territories under the Government of the East India Company, with intent to make the Coin so clipped, filed, drilled, defaced, or debased pass for the current gold or silver Coin so issued, or usually received as money as aforesaid, every such offender shall be guilty of felony, and shall be liable, on conviction, at the discretion of the Court, to be transported to such place as the Court shall direct for life or any term of years, or to be imprisoned for any term not exceeding four years.

II.

II. And it is hereby provided, that it shall not be lawful for any Court under the authority of this Act, to order the transportation of any person being a native of the East Indies, and not born of European parents, to the Eastern Coast of New South Wales, or any of the Islands adjacent thereto.

III. And it is hereby enacted, that this Act shall extend to all persons and over all places over whom or which the criminal jurisdiction of any of Her Majesty's Courts of Justice within the Territories under the Government of the East India Company extends, but not further, or otherwise.

Calcutta, 1840:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXXII. OF 1839.

Passed by the Hon'ble the President of the Council of India in Council on the 30th December, 1839.

AN Act concerning the allowance of Interest in certain cases.

I. Whereas it is expedient to extend to the Territories under the Government of the East India Company, as well within the jurisdiction of Her Majesty's Courts as elsewhere, the provisions of the Statute 3d and 4th William IV, Chapter 42, Section 28, concerning the allowance of interest in certain cases:

It is, therefore, hereby enacted, that upon all debts or sums certain payable at a certain time, or otherwise, the Court before which such debts or sums may be recovered, may, if it shall think fit, allow interest to the creditor at a rate not exceeding the current rate of interest from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written Instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the term of payment; provided that interest shall be payable in all cases in which it is now payable by law.

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INDEX

TO THE

ACTS OF THE SUPREME GOVERNMENT

FOR 1839.

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Penalty—Attendant on the non-observance of certain Rules connected with Buildings in the Islands of Bombay and Colaba.—See Buildings.			
„ —See Fines.			
Persons convicted of any offence by virtue of Act IV. of 1840, and who shall have paid the sum adjudged to be paid, together with costs, or shall have suffered imprisonment shall be released from all further proceedings for the same cause, ...	IV.	III.	
Persons—who shall receive any property, the stealing of which is by Act No. IV. punishable, knowing the same to be unlawfully come by, shall be liable to forfeiture and punishment, ...	„	VI.	
„ —tried for any offence allowed to make full answer and defence by counsel, and to have all witnesses examined and cross examined, ...	XXII.	I. and II.	
„ —held to bail to have copies of examinations of witnesses upon whose depositions they have been held to bail.—Copies of such examinations to be refused if not applied for in a certain time—Judge competent to postpone trial for want of such examinations, ...	„	III.	
„ —under trial entitled to inspect depositions taken against them, ...	„	IV.	
Petty Offence Act—Not lawful for Justices of the Peace to sentence persons charged with the commission of felony, or otherwise			

than

	Act.	Section.	Clause.
than according to the provisions of this Act, ...	XXI.	I.	
Petty Offence Act—Rule, Ordinance and Regulation for the good Order and Civil Government of the Settlement of Fort William, repealed, ...	,,	,,	
,, —Justices of the Peace to sentence persons stealing property to the extent of 20 Rupees, ...	,,	II.	
,, —Ditto to award what punishment and to what period, ...	,,	III.	
,, —Ditto at liberty to commit persons guilty of simple larceny for trial at the Supreme Court, ...	,,	IV.	
,, —Ditto to draw up his judgment, after trying any such Offender, in what form of words, ...	,,	V.	
,, —Ditto to transmit to the Supreme Court all judgments of acquittal and conviction passed by them, with the depositions and examinations of the witnesses and prisoners, ...	,,	VI.	
,, —Ditto to swear prisoners, or require them to make solemn affirmation, to cause the depositions of the witnesses, &c. to be reduced to writing, and to sign such writing, ...	,,	VII.	
,, —Persons summoned as witnesses to be punished on refusing to attend, ...	,,	VIII.	
,, —Justice of the Peace to order the restitution of the property stolen. Persons to be fined for refusing to restore the same, and in default of payment to be imprisoned, ...	,,	IX.	
,, —Persons guilty of assault or battery on board of Merchant Ships shall be liable to be punished by fine, ...	,,	X.	
,, —Nothing in this Act to affect the remedy of any person aggrieved through the means of the Writ of Certiorari, ...	,,	XI.	
Postage—See Duties.			
Prince of Wales' Island, Singapore and Malacca—Peace or Revenue Officers empowered to enter and search any house or shop in which there shall appear sufficient cause to believe Articles, the exclusive privilege of preparing or selling, which			

	Act.	Section.	Clause.
has been farmed out to parties, and to seize and take possession of them,	V.	I.	
Prince of Wales' Island, Singapore and Malacca—Persons committing any act in contravention of any of the provisions of Regulations, Nos. II. III IV and V, of 1830, passed by the late Governor in Council of the Settlements of Prince of Wales' Island, Singapore and Malacca may be searched without a Warrant by a Peace or Revenue Officer, persons to be searched may demand to be taken before some neighbouring Magistrate or Justice of the Peace,	„	II.	
„ —Persons obstructing Officers in making search as aforesaid, shall be subject to fine or in case of non-payment of fine to imprisonment,	„	„	
„ —Any Officer maliciously apprehending or detaining any person on the plea of their having infringed the provisions of the aforesaid Regulations shall pay a fine, and in case of non-payment of it, to be liable to imprisonment,	„	III.	
„ —Any Officer committed under the preceding Section, who shall have paid the sum adjudged to be paid by him, or who shall have suffered the imprisonment awarded, shall be released from further proceedings from the same cause,	„	IV.	
„ —No Revenue or Peace Officer competent to act under this act unless appointed in a certain way by the Principal Civil Authority of the Station, where such Peace or Revenue Officer may reside,	„	V.	
„ —persons within the Settlements of—waging war against the Government of any power in Alliance with the Government of the Company, or attempting to wage such war shall be guilty of felony, and be liable to transportation or imprisonment,	X.	I.	
„ ditto ditto—receiving any property knowing the same to have been taken from any Power in Alliance with the Government of the Company, in the prosecution of war against such power, shall be guilty of felony, and be liable to transporta-			

tion

	Act.	Section.	Clause.
tion, or imprisonment with or without hard labour,	X.	II.	
Prince of Wales' Island, Singapore and Malacca—Assessment to be levied on dwelling houses, &c. at George Town, &c.,	XII.	II.	
„ —Assessment to be levied on dwelling houses, &c. beyond the limits of George Town, &c.,	„	III.	
„ —Dwelling houses, &c. of value less than six Spanish Dollars, exempted from Assessment,	„	IV.	
„ —Chief Civil Officer to fix the limits of the Town of George Town, &c. in order to the determination of the rates of Assessment,	„	V.	
„ —Religious Edifices, Hospitals, Cemeteries, &c. appropriated to charitable purposes, exempted from Assessment,	„	VI.	
„ —Houses, Bungalows, &c. within any Military Cantonment, and occupied by Officers, Soldiers, and Sepoys exempted from Assessment,	„	VII.	
„ —A Tax to be levied on all Carriages, Carts, and Cattle at rates specified,	„	VIII.	
„ —Chief Civil Officer authorized to appoint Officers for the collection of Assessment and Taxes—Officers so appointed subject to the same responsibility as those employed in the collection of Land Revenue,	„	IX.	
„ —In default of payment of Assessment, property to be distrained and sold—Overplus of sale to be made over to owners,	„	X.	
„ —Officers collecting Assessment competent to sue defaulters for the recovery of arrears through a Court of Justice,	„	XI.	
„ —Persons who claim exemption from the payment of Assessment, should pay the same on demand, and afterwards appeal against such demand to Justice of the Peace sitting in General Quarter Sessions,	„	XII.	
„ —Watching, cleansing, lighting, and repairing of the streets and thoroughfares in George Town, &c. and repairing roads, bridges, &c. to be effected out of the Funds collected from the Assessment,	„	XIII.	
„ —Detailed Statements, exhibiting the sums collected under the heads of Cesses			

and

COURT OF THE DISTRICT

	Act.	Section.	Clause.
and Taxes, and shewing the disbursements to be furnished by the Officer collecting the Assessment. The statement so prepared shall be published in the Newspapers, ..	XII.	XIV & XV.	
Prince of Wales' Island, Singapore and Malacca—Officers appointed to collect the Assessment to be subject to the Chief Civil Authority of the incorporated Settlement,	„	XVI.	
„ —Palanquin, Carriage, Cart, &c. to be registered by Police Officer— Owner of any conveyance in omitting to register the same to pay a forfeit, in default of the payment of which, his goods to be distrained, ...	„	XVII.	
„ —Assessment to be paid half yearly in advance, ...	„	XVIII.	
„ —Forfeit to be paid by Owner of vehicles for not placing numbered boards on them, ...	„	XIX.	
„ —In case of any change in the occupation of any dwelling house the same Assessment to be levied as before. The same Rule to hold in reference to Assessment levied on Goods and Chattels of the occupiers, ..	„	XX.	
„ —The owner of a dwelling house not let to any tenant, shall be deemed the occupier thereof—Abatement of Assessment to be made if the premises have not been inhabited for a period of three months, .. .	„	XXI.	
„ —No Assessment shall be impeached or affected by reason of any imistake in the name of any person, or any thing charge able with Assessment or Tax, ...	„	XXII.	
„ —Land occupied in the Settlements without a grant or title from Government duly registered, and which has not been declared free from Assessment, shall be liable to Assessment, ...	XVI.	II	
„ —Persons holding land in the Settlements as by the preceding Section to remove from it on notice being given to that effect, and on refusing to do so to be ejected and the land taken possession of—Persons who have filed their claim to exemption from Assessment on land shall not be liable to ejectment until their claim shall have been determined, ...	„	III.	

	Act.	Section.	Clause.
Prince of Wales' Island, Singapore and Malacca —Magistrates and Police Officers to aid Collector and his Officers in the ejectment. Holders of land resisting such ejectment, and persons who shall be aiding such resistance shall be fined, and in default of payment of the same, shall be imprisoned, ..	XVI.	IV.	
„ —Persons desirous of clearing and occupying waste and forest lands in the Settlements to make application to the Collector of Land Revenue. If there be cause to prevent the immediate measurement of land which is to be leased, the Collector to issue to the applicant a permit or written authority to clear and occupy such land. On land thus occupied the Collector to demand and enforce the payment of rent with certain provisions, ...	„	V.	
„ —On land being leased the applicant to set up good land marks—and to keep them in repair. If land marks be not kept in repair—the Collector to cause the repairs to be made, and levy three times the cost of such repairs from the holder of the land. Persons resisting the Collector in his removing or defacing any land mark shall be punished as provided in the IVth Section of this Act,....	„	VI.	
„ —All applications to hold lands for a term exceeding that specified in Section V. to be forwarded to the Government of Bengal,.....	„	VII.	
„ —Every lease to be signed by the Collector and to specify the name of the leaseholder, the quantity of the land and the rate of rent. These particulars to be entered in a Register,.....	„	VIII.	
„ —Collector to accept on the part of Government, surrender of a grant or lease by parties for the purpose of subdividing the same, and re-grant or lease the same in parcels. No subdivision allowed unless all arrears of rent are paid up,.....	„	IX.	
„ —Payment of rent of land to be made in the office of the Collector, ...	„	X.	I.
„ —Collector to demand rent by notice in writing, in default of payment of which			

the

	Act.	Section.	Clause.
the amount with costs of process to be recovered under the powers of this Act,.. Prince of Wales' Island, Singapore and Malacca—Notice how to be served, ...	XVI.	X.	II.
„ —One Rupee to be charged for serving notice, which, if not paid, shall be leviable, in the same manner as arrears of rent,....	„	„	III.
„ —Attachment to be issued against the holder of land for not paying arrear of rent, and the Collector to seize the personal property of the holder and to bring the same to sale by Public Auction, ...	„	„	IV.
„ —Attachment to be made by whom. Seal to be set on property and an inventory thereof taken. The assistance of the Police to be availed of in case of resistance,..... ...	„	„	V.
„ —For an Attachment Two Rupees shall be charged. Leviable by sale of attached property if not paid on demand, ...	„	„	VI.
„ —Land on account of which arrear of rent shall be demanded and not paid, shall be sold and in what manner, ...	„	„	VII.
„ —Two Rupees to be deducted for Advertisement and one per cent. on the net proceeds of sale, ...	„	„	VIII. and IX.
„ —Persons having an interest in any property, may prevent the sale thereof by paying the rent in arrear with interest and all legal expences, ...	„	„	X.
„ —Summary process to be held applicable to arrears of rent due within the period of one year, ...	„	„	XI.
„ —Persons having objections to the seizure of their personal property at liberty to represent such objections to the Collector, If the call adhere to the seizure, application for redress to be made to any Civil Court,	„	„	XII.
„ —No sale of property to be stayed without a deposit of money to the amount of arrears of rent, or without substantial security, ...	„	„	XIII.
„ —Mutations in reference to land how to be registered, ...	„	XI.	XIV.
„ —No mutations shall be registered unless the boundaries of the lands are defined	„		I. and II.

by

	Act.	Section.	Clause.
by land marks. Holders to keep land marks in repair, in default of which they shall be liable to a forfeit, ...	XVI.	XI.	III.
Prince of Wales' Island, Singapore and Malacca—What fee to be charged for the Register for inspecting the Register, and for granting a certified extract from the Register, ...	„	„	IV.
„ —Registry of mutation not of itself to establish legal title to land, nor bar any rights questioned judicially. Deed to be registered in the Collector's Office to render it valid, and to be received in evidence as a legal instrument, ...	„	„	V.
„ —Nothing in this Act contained shall apply to such cultivators and resident tenants of Malacca as hold their lands by prescription, ...	„	XII.	
Regulations of the Bengal Code giving authority to any person to sell distrained property for the recovery of arrears of rent, repealed, ...	I.	I.	
„ of ditto—giving powers to persons appointed to conduct the sale of property distrained for the recovery of arrears of rent, &c. applicable to all parties appointed for the sale of such property under this Act, ...		III.	
Rent—No person is, by reason of place of birth, or by reason of descent, in proceedings connected with arrears or exactions of rent, excepted from the jurisdiction of the Revenue Courts, ...	III.	I.	
„ —No proceeding connected with arrears and exactions of rent instituted in any Revenue Courts, and no decree passed in such proceeding by such Courts, shall be treated as invalid by reason of the place of birth or descent of any party, ...	„	II.	
„ —No person shall by reason of place of birth, be in any civil proceeding connected with arrears or exactions of rent excepted from the jurisdiction of Moonsiff's Courts,	„	III.	
See Distrained Property.			
Repeal of Acts and Regulations — Section XXIII. of Regulation XXVIII. of 1802 of the Madras Code repealed—and Commis-			

	Act.	Section	Clause.
sions for the sale of distrained property appointed under the provisions of that Section annulled,	VII.	I.	
Repeal of ditto and ditto — Regulation I. of 1827, repealed,	XII.	I.	
„ ——— „ ——— „ — Acts No. XXXII. of 1837 and No. V. of 1837, repealed, .. See Petty Offence Act.	XIV.	I.	
„ ——— „ ——— „ — Act No. XXIII. of 1836, repealed,	XXIV.	I.	
„ ——— „ ——— „ — Regulation IV. of 1831, repealed, and certain other Clauses and Sections of Regulations of Bombay Code so far as they relate to the penal jurisdiction of Collectors as Magistrates, repealed,	XXV.		
„ ——— „ ——— „ — Sections and Clauses of sundry Regulations, relating to charges of corruption ; to Covenanted Servants, &c., repealed,	XXVI.	I.	
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Seamen (Native) Act,—not applicable to—who freely contracts to navigate such vessel or embarks in the capacity of a menial Servant,	XIV.	III.	
Security — Liability of Persons preferring charges against Covenanted Officers for official misconduct to furnish security, ..	XXVI.	VII.	
Stamp Duty or Institution Fee not payable in appeals to Her Majesty in Council,	XI.		
Stealing any growing tree, sapling, or shrub, &c. within the jurisdiction of Prince of Wales' Island, Singapore and Malacca how punished,	IV.	I.	
„ —Every sum of money forfeited for stealing any growing tree, sapling, &c. within the jurisdiction of Prince of Wales' Island, &c. shall be paid to the party aggrieved,	„	II.	
Sudder Dewanny and Nizamut Adawlut. See Charges.			
Sudder Boards of Revenue—See Charges.			
Sudder Ameens—(Principal and other—and Deputy Collectors) authority for the			

	Act.	Section.	Clause.
appointment of Commissions to investigate charges of official misconduct against them,	XXVI.	XXI.	
Sugar Act—Foreign Sugar, or any Sugar which is the growth of any British possession into which Foreign Sugar can be legally imported, not to be landed in any part of the Madras territories under pain of confiscation,	XV.	I.	
„ —Persons desiring to obtain Certificate of origin of Sugar, shall in the presence of the Officer granting such Certificate make and subscribe a Declaration in the form of Schedule, marked A, annexed to this Act,	„	II.	
„ —Officer before whom a Declaration in the form of Schedule A, shall have been made, shall grant to the Declarant a Certificate in the form of Schedule, marked B, annexed to this Act,	„	III.	
„ Persons intending to ship Sugar shall produce to the Collector of Customs a Certificate such as is above described, and to make and subscribe a Declaration in the form of Schedule, marked C, annexed to this Act,	„	IV.	
„ —The Officer to whom such Certificate shall have been produced and before whom such Declaration shall have been so made, shall grant to the person, who has subscribed to such Declaration a Certificate in the form of Schedule, marked D, annexed to this Act,	„	V.	
„ —Persons knowingly affirming an untruth in making any Declaration shall be punished by fine, and imprisonment with or without hard labour,	„	VI.	
„ —This Act to come into operation one year after the date of its publication,	„	VII.	
Suits for the Recovery of Fines—See Fines.			
„ Preliminaries necessary previous to commencing any action or suits against parties coming under this Act, and forms which shall be observed at different stages of proceedings,	XXVIII.	XXXIV.	
„ —*In forma pauperis* to be instituted in Civil Courts in what conditions,	IX.	I.	

	Act.	Section.	Clause.
Suits *in forma pauperis*—pleadings in,—on the part of the defendant to be written on unstamped paper, and copies of orders or proceedings which the defendant may be required to take to be furnished him on unstamped paper. Defendant not required to deposit Vakeel's fees. The conditions on which the Court shall calculate the whole of the costs, and to whom to charge the same and in what proportions,	IX.	II.	
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„ —To be subject to same liabilities to which they are subjected by Section X. Regulation IX. of 1822 of the Madras Code, ...	„	IV.	
„ —Entitled to no fee or commission for selling distrained property, ...	„	V.	
„ —Have authority to delegate powers vested in them to any public servants placed under their authority, ...	„	VI.	
Thuggee—Persons guilty of the crime of—in what Court to be tried, ...	XVIII.		
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Villages comprising the Jagheer of Chinchnee subject to all Acts and Regulations in force within the Bombay Territories, ...	VIII.		
Vizagapatam—See Ganjam and Vizagapatam.			
Warrant—See Jury.			
Water Courses—See Buildings.			

G. H. Huttmann, Bengal Military Orphan Press.

ACT No. II. OF 1840.

Passed by the Hon'ble the President of the Council of India in Council on the 10th February, 1840.

AN Act for regulating the execution of sentences of imprisonment passed by Courts Martial in certain cases.

I. It is hereby declared and enacted, that whenever under Act No. XXIII. of 1839, any sentence of a Court Martial shall adjudge imprisonment, or imprisonment with labor, for any offence, it shall be the duty of every Judge, Magistrate, Sheriff or other Officer in charge of any Gaol, to give effect to such sentence on the offender being delivered into his custody, and on being furnished with a copy of the sentence by the Officer Commanding the Division, Garrison, Regiment, or Detachment, as the case may be, to which the offender belongs.

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ACT No. IV. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 17th February, 1840.

AN Act for preventing Affrays concerning the possession of Land, and for providing relief in cases of forcible dispossession, within the Presidency of Fort William in Bengal.

I. Whereas it is expedient to remove doubts which have arisen upon the interpretation of Regulation XV of 1824, and to amend the Law for preventing Affrays concerning the possession of Land and for giving relief in cases of forcible dispossession, and to extend it to cases not hitherto provided for, and to make it applicable to persons of every class or description, whether British-born subjects or others:

It is hereby enacted, that Regulation XLIX of 1793, Regulation XIV of 1795, Regulation XXXII of 1803, Section 5, Regulation VI of 1813, Regulation XV of 1824, and Regulation II of 1829, of the Bengal Code, together with so much of any Regulations as extends any of the above Regulations or parts of Regulations to any places within the Presidency of Fort William in Bengal, be repealed.

II.

II. And it is hereby enacted, that whenever any Magistrate or other Officer exercising the powers of a Magistrate may be certified that a dispute likely to induce a breach of the peace exists concerning any Land, Premises, Water, Fisheries, Crops, or other produce of Land, within the limits of his jurisdiction, he shall record a proceeding, stating the grounds of his being certified, and shall call on all parties concerned in such dispute (whether Proprietors, dependent Talookdars, Farmers, Under-Farmers, Ryots or other persons) to attend his Court in person, or by agent, within a reasonable time, and to give in a written statement of their respective claims as respects the fact of actual possession of the subject of dispute. And the Magistrate or other Officer as aforesaid shall, without reference to the merits of the claims of any party to a right of possession, proceed to enquire what party was in possession of the subject of dispute when the dispute arose, and after satisfying himself upon that point, shall record a proceeding declaring the party whom he may decide to have been in such possession to be entitled to retain possession, until ousted by due course of Law, and forbidding all disturbance of possession until such time; and if necessary the Magistrate or other Officer as aforesaid shall put such party into possession, and maintain him in possession, until the rights of the parties disputing be determined by a competent Court.

III. And it is hereby enacted, that if the Magistrate or other Officer as aforesaid shall, in the cases mentioned in Section II of this Act, be unable to satisfy himself as to what party was in possession of the subject of dispute when the dispute arose, he may attach the subject of dispute until the rights of the parties be determined by a competent Court, giving the Collector information of the attachment; and if the subject of dispute be Land, the provisions of Regulation V of 1827 regarding attachment by order of a Zillah or City Court shall apply to attachments by order of a Magistrate or other Officer as aforsaid made under this Section.

IV. And it is hereby enacted, that if any party shall complain to a Magistrate or other Officer as aforesaid, that he has been without authority of Law forcibly dispossessed of any Land, Premises, Water, Fisheries, Crops, or other produce of Land within the jurisdiction of such Magistrate or other Officer as aforesaid, whether the same were possessed by such party as Proprietor, dependent Talookdar, Farmer, Under-Farmer, Ryot or otherwise, the Magistrate or other Officer as aforesaid shall require the party or parties complained against, and any other parties concerned, to appear and make defence in person or by agent within a reasonable time; and if, after the examination of the necessary witnesses and documents, the complaint appears to him to be substantiated, he shall record a proceeding, ordering the party complaining to be put again into possession of the subject of dispute, and maintained in possession until the right to possession be determined by a competent Court; provided that no such order shall be passed unless the party complaining of having been so dispossessed prefer his claim within one month from the time of such dispossession.

V. And it is hereby enacted, that if, in cases instituted under this Act, the subject of dispute be newly formed Land, whereof it shall appear to the Magistrate or other Officer as aforesaid that no party has ever had possession, the Magistrate or other Officer as aforesaid shall award possession to the party to whom the right of possession belongs according to law or custom, and shall maintain that party in possession until the right to possession be determined by competent Court.

VI. And it is hereby enacted, that if a dispute arises concerning the right of use of any Land or Water, the Magistrate or other Officer as aforesaid within whose jurisdiction the subject of dispute lies may enquire into the matter, and if it shall appear to him that the subject of dispute was open to the use of the public,

public, or of any person, or of any class of persons, the said Magistrate or other Officer may order that possession thereof shall not be taken or retained by any party to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the party claiming such possession shall obtain the decision of a competent Court adjudging him to be entitled to such exclusiv possession. Provided that the Magistrate or other Officer as aforesaid shall not pass any such order as aforesaid, if the matter be such that the right of use is capable of being exercised at all times of the year, unless that right shall have been ordinarily exercised within three months from the date of the institution of the enquiry, or in cases where the right of use exists at particular seasons, unless such right has been exercised without discontinuance before the dispossession of which complaint is made.

VII. And it is hereby enacted, that any person opposing by force the execution of an order for possession or use, given under this Act, or refusing obedience thereto, or knowingly contravening the same, as long as it shall remain in legal force, shall, together with all persons aiding and abetting, be liable, on conviction before a Magistrate or other Officer with the powers of a Magistrate, to be sentenced to simple imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, commutable if not paid to a period of simple imprisonment not exceeding six months, or to both imprisonment and fine as aforesaid.

VIII. And it is hereby enacted, that all orders passed under this Act shall be appealable in the usual manner under the Regulations and Laws that are or may be in force relating to appeals from the orders of Magistrates or other Officers exercising the powers of Magistrates.

IX. And it is hereby enacted, that in cases instituted under this Act the Magistrate or other Officer as aforesaid is authorised, with the consent of all the parties, to refer the matter in dispute, so far as it is cognisable under this Act, to an arbitrator or arbitrators for decision, whose award shall be executed as if it were the award of such Magistrate or other Officer as aforesaid.

X. And it is hereby provided that nothing in this Act contained shall affect the legal exercise of any right of attachment or seizure vested by law in any parties.

XI. And it is hereby further provided, that this Act shall not extend to any place beyond the limits of the Presidency of Fort William in Bengal, or to the Settlements of Prince of Wales' Island, Singapore, or Malacca, or to any place situated within the local limits of the jurisdiction of Her Majesty's Supreme Court at Calcutta.

Calcutta: 1840.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. V. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 24th of February, 1840.

An Act concerning the Oaths and Declarations of Hindoos and Mahometans.

I WHEREAS obstruction to justice, and other inconveniences have arisen in consequence of persons of the Hindoo or Mahometan persuasion being compelled to swear by the water of the Ganges, or upon the Koran, or according to other forms which are repugnant to their consciences or feelings;

It is hereby enacted, that except as hereinafter provided, instead of any oath or declaration now authorized or required by law, every individual of the classes aforesaid within the Territories of the East India Company shall make affirmation to the following effect:—

"I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth."

II. And it is hereby enacted, that if any person making such affirmation as aforesaid shall wilfully and falsely state any matter or thing which if the same had been sworn before the passing of this Act would have amounted to perjury,

perjury, every such offender shall be subject in all Courts to the same punishment to which persons convicted of perjury were subject before the passing of this Act.

III. And it is hereby enacted, that any person causing or procurin another to commit the offence defined in the second Section of this Act sha be subject in all Courts to the same punishment to which persons convicted of subornation of perjury were subject before the passing of this Act.

IV. And it is hereby provided, that this Act shall not extend to any Declaration made under the authority of Act No. XXI. of 1837, nor to any Declaration or Affirmation made in any of Her Majesty's Courts of Justice.

Calcutta, 1840:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. VII. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 30th March, 1840.

AN Act for authorizing the appointment of Uncovenanted Servants to the Offices of Deputy Register and Assistant Register to the Sudder Courts of the Presidency of Fort William in Bengal.

It is hereby enacted, that whenever the Governor of Bengal, and the Lieutenant-Governor, or other authority exercising the powers of Lieutenant-Governor of the North-Western Provinces, shall deem it expedient to appoint any persons not being Covenanted Servants, to the Offices of Deputy Register or Assistant Register to the Court of Sudder Dewanny and Nizamut Adawlut at Calcutta and Allahabad respectively, it shall be competent to those Courts to assign to the Officers above named, any duties at present performed by their Registers.

Calcutta, 1840:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. X. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 20th April, 1840.

AN Act for the abolition of certain Pilgrim Taxes and for the superintendence of the Temple of Juggernath.

I. Whereas it is considered proper to abolish the exaction of all taxes or fees upon pilgrims resorting to Allahabad, Gya, and Juggernath, and to transfer the charge of the affairs of the Juggernath Temple exclusively to a competent Hindoo Superintendent, under a full responsibility to the established Courts of Justice, for the redress of any violence or wrong, upon the application of any party interested;

It is hereby enacted, that so much of Section 31, Regulation XII. of 1805, as provides for the continuance of the duties levied from Pilgrims at Juggernath;

So

ACT No. X. OF 1840.

So much of Section 4, Regulation XXVII. of 1793 as provides for the continuance of the duties levied on Pilgrims at Gya and other places of Pilgrimage;

Reg. IV. of 1806;
Reg. V. of 1806;
Sec. 9, Reg. VI. of 1808;
Reg. IV. of 1809;
Sec. 4, Reg. IV. of 1810;
Reg. XI. of 1810, and
Reg. XVIII. of 1810,

are repealed.

II. And it is hereby enacted, that the superintendence of the Temple of Juggernath, and its interior economy, the conduct and management of its affairs, and the control over the Priests, Officers, and Servants attached to the Temple, shall continue vested in the Rajah of Khoorda for the time being; provided always that the said Rajah, and all persons connected with the said Temple shall on all occasions be guided by the recorded rules and institutions of the Temple, or by ancient and established usage, so far as the same may be consistent with the Provisions of this Act.

III. And it is hereby enacted, that the said Rajah of Khoorda shall not receive or allow to be received by any person connected with the said Temple, any payment, other than such voluntary donations as may be freely offered from any person resorting to the said Temple, for the performance of religious ceremonies.

IV.

IV. And it is hereby declared and enacted, that the said Rajah, and all Priests, Officers, and Servants attached to the said Temple, are and shall be liable to be sued or prosecuted by any party interested, in any Civil or Criminal Court of competent jurisdiction, for any breach of trust, or official misfeasance, committed in the conduct of their duties, or for any extortion or illegal violence exercised upon pilgrims or others under color of the authority conveyed by this Act.

Calcutta: 1840.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XIII. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 29th of June, 1840.

AN Act for the amendment of the Law regarding Factors, by extending to the territories of the East India Company, in cases governed by English law, the provisions of the Statute 4 Geo. IV. Ch. 83 as altered and amended by the Statute 6 Geo. IV. Ch. 94.

It is hereby enacted, that the Statute of the 4 Geo. IV. Cap. 83 as altered and amended by the Statute of 6 Geo. IV. Ch. 94, shall be extended to the territories of the East India Company ; provided always that this Act shall not be construed to affect any case which would not have been governed by the Law of England before the passing of the aforesaid Statutes if this Act had not passed ; or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

The Statutes hereby extended to the Territories of the East India Company are as follows.

ACT No. XIII. OF 1840.

4 GEO. IV. CAP. 83.

An Act for the better protection of the Property of Merchants and others, who may hereafter enter into Contracts or Agreements in relation to Goods, Wares, or Merchandizes, intrusted to Factors or Agents. (18th July, 1823.)

" Whereas it has been found that the Law, as it now stands, relating to Goods shipped in the names of persons who are not the actual Proprietors thereof, and to the deposit or pledge of Goods, affords great facility to fraud, produces frequent litigation, and proves, in its effects, highly injurious to the interests of Commerce in general ;" Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, any person or persons intrusted, for the purpose of sale, with any Goods, Wares, or Merchandize, and by whom such Goods, Wares, or Merchandize shall be shipped, in his, her or their own name or names, or in whose name or names any Goods, Wares, or Merchandize shall be shipped by other person or persons, shall be deemed and taken to be the true Owner or Owners thereof, so far as to entitle the Consignee or Consignees of such Goods, Wares, and Merchandize to a lien thereon, in respect of any money or negotiable security or securities advanced or given by such Consignee or Consignees to or for the use of the person or persons in whose name or names such Goods, Wares, or Merchandize shall be shipped, or in respect of any money or negotiable

Persons, in whose names Goods shall be shipped, shall be deemed the Owners, so as to entitle Consignees to a lien thereon as herein mentioned.

negotiable security or securities received by him, her or them to the use of such Consignee or Consignees, in the like manner to all intents and purposes as if such person or persons was or were the true Owner or Owners of such Goods, Wares and Merchandize; provided such Consignee or Consignees shall not have notice, by the Bill of Lading for the delivery of such Goods, Wares or Merchandize or otherwise, at or before the time of any advance of such money or negotiable security, or of such receipt of money or negotiable security in respect of which such lien is claimed, that such person or persons so shipping in his, her or their own name or names, or in whose name or names any Goods, Wares or Merchandize shall be shipped by any person or persons, is or are not the actual and *bona fide* Owner or Owners, Proprietor or Proprietors of such Goods, Wares and Merchandize so shipped as aforesaid, any law, usage or custom to the contrary thereof in any wise notwithstanding: Provided also, that the person or persons in whose name or names any such Goods, Wares or Merchandize are so shipped as aforesaid, shall be taken for the purposes of this Act to have been intrusted therewith, unless the contrary thereof shall appear or be shewn in evidence by any person disputing such fact.

Any person may take Goods or Bill of Lading in deposit from Consignee but shall not acquire any further right than Consignee possessed.

II. And be it further enacted, that it shall be lawful to and for any person or persons, body or bodies, politic or corporate, to accept and take any Goods, Wares or Merchandize, or the Bill or Bills of Lading for the delivery thereof, in deposit or pledge from any Consignee or Consignees thereof; but then and in that case such person or persons, body or bodies, politic or corporate, shall acquire no further or other right, title or interest,

interest, in or upon or to the said Goods, Wares or Merchandize, or any Bill of Lading for the delivery thereof than was possessed, or could or might have been enforced by the said Consignee or Consignees at the time of such deposit or pledge as a security as aforesaid: but such person or persons, body or bodies, politic or corporate, shall and may acquire, possess and enforce such right, title, or interest, as was possessed and might have been enforced, by such Consignee or Consignees at the time of such deposit or pledge as aforesaid, any rule of law, usage or custom to the contrary notwithstanding.

Right of Owner to follow his Goods while in the hands of his Agent or of his Assignees in case of Bankruptcy, or to recover them from Assignees, &c. upon paying his advances secured upon them, &c.

III. Provided always, that nothing herein contained shall be deemed, construed, or taken to deprive or prevent the true Owner or Owners, Proprietor or Proprietors of such Goods, Wares or Merchandize, from demanding and recovering the same from his, her, or their Factor or Factors, Agent or Agents, before the same shall have been so deposited or pledged, or from the Assignee or Assignees of such Factor or Factors, Agent or Agents, in the event of his, her, or their Bankruptcy; nor to prevent any such Owner or Owners, Proprietor or Proprietors, from demanding or recovering of, and from any person or persons, or of or from the Assignees of any person or persons in case of his or her bankruptcy, or of or from any body or bodies, politic or corporate, such Goods, Wares, or Merchandize so consigned, deposited, or pledged, upon repayment of the money or on restoration of the negotiable security or securities, or on payment of a sum of money equal to the amount of such security or securities, for which money or negotiable security or securities such person or persons, his, her, or their Assignee or

Assignees,

Assignees, or such body or bodies, politic or corporate, may be entitled to any lien upon such Goods, Wares, or Merchandize, nor to prevent the said Owner or Owners, Proprietor or Proprietors, from recovering of and from such person or persons, body or bodies, politic or corporate, any balance or sum of money remaining in his, her, or their hands, as the produce of the sale of such Goods, Wares, or Merchandize, after deducting thereout the amount of the money or negotiable security or securities so advanced or given upon the security thereof as aforesaid. Provided always, that in case of the bankruptcy of such Factor or Agent, the Owner of the Goods so pledged and redeemed as aforesaid, shall be held to have discharged *pro-tanto* the debt due by him to the Bankrupt's estate.

Proviso as to bankruptcy of Factor.

6TH GEO. IV. CAP. 94.

An Act to alter and amend an Act for the better protection of the Property of Merchants and others, who may hereafter enter into Contracts or Agreements in relation to Goods, Wares, or Merchandizes intrusted to Factors or Agents.

Whereas an Act passed in the fourth year of the Reign of His present Majesty, intituled *an Act for the better protection of the Property of Merchants and others, who may hereafter enter into contracts or agreements in relation to Goods, Wares, or Merchandize intrusted to Factors or Agents:* And whereas it is expedient to alter and amend the said Act, and to make further

4 Geo. 4. C. 83.

provisions in relation to such contracts or agreements, as hereinafter provided: Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, any person or persons intrusted for the purpose of consignment or of sale, with any Goods, Wares, or Merchandize, and who shall have shipped such Goods, Wares, or Merchandize in his, her, or their own name or names, and any person or persons in whose name or names any Goods, Wares, or Merchandize shall be shipped by any other person or persons, shall be deemed and taken to be the true Owner or Owners thereof, so far as to entitle the Consignee or Consignees of such Goods, Wares, and Merchandize to a lien thereon, in respect of any money or negotiable security or securities advanced or given by such Consignee or Consignees to or for the use of the person or persons in whose name or names such Goods, Wares, or Merchandize shall be shipped, or in respect of any money or negotiable security or securities received by him, her, or them, to the use of such Consignee or Consignees, in the like manner to all intents and purposes as if such person or persons was or were the true Owner or Owners of such Goods, Wares, and Merchandize, provided such Consignee or Consignees shall not have noticed by the Bill of Lading for the delivery of such Goods, Wares or Merchandize, or otherwise, at or before the time of any advance of such money or negotiable security, or of such receipt of money or negotiable security in respect of which such lien is claimed, that such person or persons so shipping in his, her, or their own name or names, or in whose name

Factors or Agents having Goods or Merchandize in their possession, shall be deemed to be true Owners, so as to give validity to contracts with persons dealing bona fide upon the faith of such property.

or names any Goods, Wares, or Merchandize shall be shipped by any person or persons, is or are not the actual and *bona fide* Owner or Owners, Proprietor or Proprietors of such Goods, Wares, and Merchandize so shipped as aforesaid, any law, usage, or custom to the contrary thereof in any wise notwithstanding: provided also, that the person or persons in whose name or names any such Goods, Wares, or Merchandize are so shipped as aforesaid, shall be taken, for the purpose of this Act, to have been intrusted therewith for the purpose of consignment or of sale, unless the contrary thereof shall be made to appear by bill of discovery or otherwise, or be made to appear, or be shown in evidence by any person disputing such fact.

Persons in possession of Bills of Lading, &c., to be the Owners so far as to make valid contracts.

II. And be it further enacted, that from and after the First day of *October* one thousand eight hundred and twenty-six, any person or persons intrusted with and in possession of any Bill of Lading, *India* Warrant, Dock Warrant, Warehouse Keeper's Certificate, Wharfinger's Certificate, Warrant or Order for delivery of Goods, shall be deemed and taken to be the true Owner or Owners of the Goods, Wares, and Merchandize described and mentioned in the said several documents hereinbefore stated respectively, or either of them, so far as to give validity to any contract or agreement thereafter to be made or entered into by such person or persons so intrusted and in possession as aforesaid, with any person or persons, body or bodies, politic or corporate, for the sale or disposition of the said Goods, Wares, and Merchandize, or any part thereof, or for the deposit or pledge thereof, or any part thereof, as a security for any money or negotiable instrument or instruments advanced or given by such

person

person or persons, body or bodies, politic or corporate, upon the faith of such several documents or either of them; provided such person or persons, body or bodies, politic or corporate, shall not have noticed by such documents or either of them, or otherwise, that such person or persons so intrusted as aforesaid is or are not the actual and *bona fide* Owner or Owners, Proprietor or Proprietors of such Goods, Wares or Merchandize so sold or deposited or pledged as aforesaid; any law, usage, or custom to the contrary thereof in anywise notwithstanding.

No person to acquire a security upon Goods in the hands of an Agent for an antecedent debt, beyond the amount of the Agent's interest in the Goods.

III. Provided always, and be it further enacted, that in case any person or persons, body or bodies, politic or corporate, shall, after the passing of this Act, accept and take any such Goods, Wares, or Merchandize in deposit or pledge from any such person or persons so in possession and intrusted as aforesaid, without notice as aforesaid, as a security for any debt or demand due and owing from such person or persons so intrusted and in possession as aforesaid, to such person or persons, body or bodies, politic or corporate, before the time of such deposit or pledge, then and in that case such person or persons, body or bodies, politic or corporate, so accepting or taking such Goods, Wares, or Merchandize in deposit or pledge, shall acquire no further or other right, title or interest in or upon or to the said Goods, Wares, or Merchandize, or any such document as aforesaid than was possessed, or could or might have been enforced by the said person or persons so possessed and intrusted as aforesaid, at the time of such deposit or pledge as a security as last aforesaid; but such person or persons, body or bodies, politic or corporate, so accepting or taking such Goods, Wares or Merchandize

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Merchandize in deposit or pledge, shall and may acquire, possess, and enforce such right, title, or interest as was possessed and might have been enforced by such person or persons so possessed and intrusted as aforesaid; any rule of law, usage, or custom to the contrary notwithstanding.

Persons may contract with known Agents in the ordinary course of business or out of that course if within the Agent's authority.

IV. And be it further enacted, that from and after the first day of *October* one thousand eight hundred and twenty-six, it shall be lawful to and for any person or persons, body or bodies, politic or corporate, to contract with any Agent or Agents, intrusted with any Goods, Wares, or Merchandize, or to whom the same may be consigned, for the purchase of any such Goods, Wares, and Merchandize, and to receive the same of and pay for the same to such Agent or Agents; and such contract and payment shall be binding upon and good against the Owner of such Goods, Wares, and Merchandize, notwithstanding such person or persons, body or bodies, politic or corporate, shall have notice that the person or persons making and entering into such contract, or on whose behalf such contract is made or entered into, is an Agent or Agents, provided such contract and payment be made in the usual and ordinary course of business, and that such person or persons, body or bodies, politic or corporate, shall not, when such contract is entered into or payment made, have notice that such Agent or Agents is or are not authorized to sell the said Goods, Wares, and Merchandize, or to receive the said purchase money.

Persons may accept and take Goods, &c. in pledge from known Agents; but in that case shall acquire no

V. And be it further enacted, that from and after the passing of this Act, it shall be lawful to and for any person or

further interest than was possessed by such Agent at the time of such pledge.

persons, body or bodies, politic or corporate, to accept and take any such Goods, Wares, or Merchandize, or any such document as aforesaid, in deposit or pledge from any such Factor or Factors, Agent or Agents, notwithstanding such person or persons, body or bodies, politic or corporate, shall have such notice as aforesaid, that the person or persons making such deposit or pledge is or are a Factor or Factors, Agent or Agents; but then and in that case such person or persons, body or bodies, politic or corporate, shall acquire no further or other right, title, or interest in or upon or to the said Goods, Wares, or Merchandize, or any such document as aforesaid, for the delivery thereof, than was possessed or could or might have been enforced by the said Factor or Factors, Agent or Agents, at the time of such deposit or pledge as a security as last aforesaid; but such person or persons, body or bodies, politic or corporate, shall and may acquire, possess, and enforce such right, title, or interest as was possessed and might have been enforced by such Factor or Factors, Agent or Agents, at the time of such deposit or pledge as aforesaid; any rule of law, usage or custom to the contrary notwithstanding.

Right of the true Owner to follow his Goods while in the hands of his Agent or of his Assignee in case of bankruptcy or to recover them from a third person, upon paying his advances ...ed upon them.

VI. Provided always, and be it enacted, that nothing herein contained shall be deemed, construed, or taken to deprive or prevent the true Owner or Owners, or Proprietor or Proprietors, of such Goods, Wares, or Merchandize, from demanding and recovering the same from his, her, or their Factor or Factors, Agent or Agents, before the same shall have been so sold, deposited, or pledged, or from the Assignee or Assignees of such Factor or Factors, Agent or Agents, in the event of his, her, or

their

their bankruptcy; nor to prevent such Owner or Owners, Proprietor or Proprietors, from demanding or recovering of and from any person or persons, body or bodies, politic or corporate, the price or sum agreed to be paid for the purchase of such Goods, Wares, or Merchandize, subject to any right of set off on the part of such person or persons, body or bodies, politic or corporate, against such Factor or Factors, Agent or Agents; nor to prevent such Owner or Owners, Proprietor or Proprietors, from demanding or recovering of and from such person or persons, body or bodies, politic or corporate, such Goods, Wares, or Merchandize so deposited or pledged, upon repayment of the money, or on restoration of the negotiable instrument or instruments so advanced or given on the security of such Goods, Wares, or Merchandize as aforesaid, by such person or persons, body or bodies, politic or corporate, to such Factor or Factors, Agent or Agents; and upon payment of such further sum of money, or on restoration of such other negotiable instrument or instruments (if any) as may have been advanced or given by such Factor or Factors, Agent or Agents, to such Owner or Owners, Proprietor or Proprietors, or on payment of a sum of money equal to the amount of such instrument or instruments; nor to prevent the said Owner or Owners, Proprietor or Proprietors, from recovering of and from such person or persons, body or bodies, politic or corporate, any balance or sum of money remaining in his, her, or their hands, as the produce of the sale of such Goods, Wares, or Merchandize, after deducting thereout the amount of the money or negotiable instrument or instruments so advanced or given upon the security thereof as aforesaid: Provided always, that in case of the bankruptcy of any such Factor or Agent, the Owner

In case of bankruptcy of Factor, the Owner of Goods so pledged and redeemed

shall be held to have discharged pro tanto the debt due from him to Bankrupt.

Owner or Owners, Proprietor or Proprietors of the Goods, Wares, and Merchandize so pledged and redeemed as aforesaid, shall be held to have discharged *pro tanto* the debt due by him, her, or them to the Estate of such Bankrupt.

Agents fraudulently pledging the Goods of their Principals deemed guilty of a misdemeanor.

VII. And whereas it is expedient to prevent the improper deposit or pledge of Goods, Wares, or Merchandize, or the documents relating to such Goods, Wares, or Merchandize, intrusted or consigned as aforesaid to Factors or Agents; be it therefore enacted, that if any such Factors or Agents, at any time from and after the said first day of *October*, one thousand eight hundred and twenty-six, shall deposit or pledge any Goods, Wares, or Merchandize, intrusted or consigned as aforesaid to his or her care or management, or any of the said several documents so possessed or intrusted as aforesaid, with any person or persons, body or bodies, politic or corporate, as a security for any money or negotiable instrument or instruments borrowed or received by such Factor or Agent, and shall apply or dispose thereof to his or her own use, in violation of good faith, and with intent to defraud the Owner or Owners of any such Goods, Wares, or Merchandize, every person so offending, in any part of the United Kingdom, shall be deemed and taken to be guilty of a misdemeanor, and being convicted thereof according to law,

May be transported not exceeding fourteen years, &c.

shall be sentenced to transportation for any term not exceeding fourteen years, or to receive such other punishment as may by law be inflicted on persons guilty of a misdemeanor, and as the Court before whom such offender may be tried and convicted shall adjudge.

VIII. Provided always, and be it further enacted, that nothing herein contained shall extend or be construed to extend to subject any person or persons to prosecution, for having deposited or pledged any Goods, Wares, or Merchandize so intrusted or consigned to him, her or them, provided the same shall not be made a security for or subject to the payment of any greater sum or sums of money than at the time of such deposit or pledge was justly due, and owing to such person or persons from his, her, or their principal or principals: Provided nevertheless that the Acceptances of Bills of Exchange by such person or persons drawn by or on account of such principal or principals, shall not be considered as constituting any part of such debt so due, and owing from such principal or principals within the true intent and meaning of this Act, so as to excuse the consequence of such a deposit or pledge, unless such Bills shall be paid when the same shall respectively become due.

Not to extend to cases in which the Agent has not made the Goods a security for any sum beyond the extent of his own lien.

Acceptances of Bills by an Agent not to create a lien so as to excuse the pledge, unless the Bills are paid when due.

IX. Provided also, and be it further enacted, that the penalty by this Act annexed to the commission of any offence intended to be guarded against by this Act, shall not extend or be construed to extend to any partner or partners or other person or persons of or belonging to any partnership, society, or firm, except only such partner or partners, person or persons, as shall be accessary or privy to the commission of such offence; any thing herein contained to the contrary in any wise notwithstanding.

Act not to extend to partners not being privy to the offence.

X. Provided also, and be it further enacted, that nothing in this Act contained, nor any proceeding, conviction, or judgment

Act not to lessen any remedy at Law or Equity which the party aggrieved may be entitled to adopt.

to be had or taken thereupon, shall hinder, prevent, lessen, or impeach any remedy at Law or in Equity, which any party or parties aggrieved by any offence against this Act might or would have had or have been entitled to against any such offender if this Act had not been made, nor any proceeding, conviction, or judgment had been had or taken thereupon; but nevertheless, the conviction of any offender against this Act shall not be received in evidence in any action at law or suit in Equity against such offender: And further, that no person shall be liable to be convicted by any evidence whatever as an offender against this Act, in respect of any act, matter, or thing done by him, if he shall at any time previously to his being indicted for such offence have disclosed any such matter or thing on oath under or in consequence of any compulsory process of any Court of Law or Equity, in any action, suit, or proceeding, in or to which he shall have been a party, and which shall have been *bona fide* instituted by the party aggrieved by the act, matter or thing, which shall have been committed by such offender aforesaid.

Calcutta, 1840:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XIV. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 29th of June, 1840.

AN Act for rendering a written Memorandum necessary to the validity of certain promises and engagements by extending to the Territories of the East India Company, in cases governed by English Law the Provisions of the Statute 9, Geo. IV. Ch. XIV.

It is hereby enacted, that the Statute 9, Geo. IV. Ch. XIV. shall be extended to the Territories of the East India Company; provided always that this Act shall not be construed to affect any case, which would not have been governed by the Law of England before the passing of the aforesaid Statute, if this Act had not passed; or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

The Statute hereby extended to the Territories of the East India Company is as follows (the sum of £10 mentioned therein to be deemed 100 Rupees in the application of the Statute to the aforesaid Territories.)

ACT No. XIV. OF 1840.

9TH GEO. IV. CAP. XIV.

An Act for rendering a written Memorandum necessary to the validity of certain Promises and Engagements.

9th May, 1828.

English Act 21, Jas. I. C. 16.

Whereas by an Act passed in England in the twenty-first year of the Reign of King James the First, it was, among other things, enacted, that all actions of account and upon the case, other than such accounts as concern the trade of merchandize between Merchant and Merchant, their Factors or Servants, all actions of debt grounded upon any lending or contract without specialty, and all actions of debt for arrearages of rent, should be commenced within three years after the end of the then present Session of Parliament, or within six years next after the cause of such actions or suit, and not after. And whereas a similar Enactment is contained in an Act passed in Ireland in the tenth year of the reign of King Charles the First, and whereas various questions have arisen in actions founded on simple contract, as to the proof and effect of acknowledgments and promises offered in evidence for the purpose of taking cases out of the operation of the said Enactments; and it is expedient to prevent such questions and to make provision for giving effect to the said Enactments and to the intention thereof. Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same. That in actions of debt or upon the case grounded upon any simple contract no acknowledgment or promise by words

Irish Act 10, Car. I. Sess. 2, C. 6.

In actions of debt or upon the case, no acknowledgment shall be deemed sufficient unless it be in writing, or by part payment

words only shall be deemed sufficient evidence of a new or continuing contract, whereby to take any case out of the operation of the said Enactments, or either of them, or to deprive any party of the benefit thereof, unless such acknowledgment or promise shall be made or contained by or in some writing to be signed by the party chargeable thereby, and that where there shall be two or more Joint Contractors, or Executors or Administrators of any Contractor no such Joint Contractor, Executor, or Administrator shall lose the benefit of the said Enactments, or either of them, so as to be chargeable in respect or by reason only by any written acknowledgment or promise made and signed by any other or others of them. Provided always, that nothing herein contained shall alter or take away or lessen the effect of any payment of any principal or interest made by any person whatsoever. Provided also, that in actions to be commenced against two or more such Joint Contractors, or Executors or Administrators, if it shall appear at the trial or otherwise that the Plaintiff, though barred by either of the said recited Acts or this Act, as to one or more of such Joint Contractors, or Executors or Administrators, shall nevertheless be entitled to recover against any other or others of the Defendants, by virtue of a new acknowledgment or promise, or otherwise, judgment may be given and costs allowed for the Plaintiff as to such Defendant or Defendants against whom he shall recover, and for the other Defendant or Defendants against the Plaintiff.

Joint Contractors.

Proviso for the case of Joint Contractors.

II. And be it further enacted, that if any Defendant or Defendants in any action on any simple contract shall plead any matter

Pleas in Abatement.

matter in abatement, to the effect that any other person or persons ought to be jointly sued and issue be joined on such plea, and it shall appear at the trial that the action could not, by reason of the said recited Acts, or this Act, or of either of them, be maintained, against the other person or persons named in such plea, or any of them, the issue joined on such plea shall be found against the party pleading the same.

Indorsements of Payment.

III. And be it further enacted, that no Indorsement or Memorandum of any payment written or made after the time appointed for this Act to take effect, upon any Promissory Note, Bill of Exchange, or other writing by or on the behalf of the party to whom such payment shall be made, shall be deemed sufficient proof of such payment so as to take the case out of the operation of either of the said Statutes.

Simple Contract debts alleged by way of set off.

IV. And be it further enacted, that the said recited Acts and this Act shall be deemed and taken to apply to the case of any debt on simple contract alleged by way of set off on the part of any Defendant, either by plea, notice, or otherwise.

Confirmation of promises made by Infants.

V. And be it further enacted, that no action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith.

VI.

VI. And be it further enacted, that no action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given, concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain credit, money, or goods upon, unless such representation or assurance be made in writing, signed by the party to be charged therewith. Representations of character.

VII. And whereas by an Act passed in England in the twenty-ninth year of the reign of King Charles the Second, intituled an Act for the prevention of Frauds and Perjuries, it is, among other things enacted, that from and after the twenty-fourth day of June one thousand six hundred and seventy-seven, no contract for the sale of any goods, wares and merchandizes, for the price of ten pounds sterling or upwards, shall be allowed to be good except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment; or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their Agents thereunto lawfully authorized. And whereas a similar Enactment is contained in an Act passed in Ireland in the seventh year of the reign of King William the Third. And whereas it has been held that the said recited Enactments do not extend to certain executory contracts for the sale of goods, which nevertheless are within the mischief thereby intended to be remedied; and it is expedient to extend the said Enactments to such executory contracts; be it enacted, that the said 29 Car 2, C. 3. Irish Act 7. W. 3, C. 12.

Powers of recited Acts extended to Contracts for Goods of 10£ or upwards although the delivery be not made.

Enactments shall extend to all contracts for the sale of goods of the value of ten pounds sterling and upwards, notwithstanding the goods may be intended to be delivered at some future time, or may not at the time of such contract be actually made, procured or provided, or fit or ready for delivery, or some Act may be requisite for the making or completing thereof, or rendering the same fit for delivery.

Memorandum exempted from Stamps.

VIII. And be it further enacted, that no memorandum or other writing made necessary by this Act shall be deemed to be an agreement within the meaning of any Statute relating to the duties of Stamps.

Calcutta, 1840 :—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XIX. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 14th September, 1840.

Act for amending the procedure in cases of Appeals made in formâ pauperis, within the Presidency of Fort William in Bengal.

IT is hereby enacted, that the proviso contained in Clause 1, Section V. Regulation XXVIII. 1814 of the Bengal Code in regard to females of rank, shall be applicable, at the discretion of the Courts of Sudder Dewanny Adawlut of the Presidency of Fort William in Bengal respectively, to any party desirous of appealing in formâ pauperis to either of those Courts.

Calcutta, 1840 :—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XX. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 19th October, 1840.

An Act for declaring the law touching the liability of Auction Purchasers of permanently assessed Estates under Section XXI. Regulation XI. of 1822, *of the Bengal Code.*

I. WHEREAS doubts have arisen whether the liability of Auction Purchasers, under the Provisions of Section XXI. Regulation XI. of 1822, Bengal Code, to make good the difference between the sums bid at a first and second sale of Lands, sold for the realization of arrears of Revenue, has been affected by the Provisions of Section VII. Regulation VII. of 1830 of the same Code:—

It is hereby declared and enacted, that the said liability provided for, and imposed by Section XXI. Regulation XI. of 1822 aforesaid, has in no wise been altered or affected by Section VII. Regulation VII. of 1830 aforesaid, and that such liability shall be considered in full force and virtue, as if such last mentioned Regulation had not been passed.

Calcutta, 1840:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXI. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 19th of October, 1840.

An Act concerning Suits instituted under the provisions of Regulation XLIX. of 1793, prior to, and pending at, the date of the enactment of Act IV. of 1840.

IT is hereby enacted, that Act IV. of 1840 shall not affect the trial of Suits under Regulation XLIX. 1793, which were pending originally or in appeal at the time of the passing of that Act, and that all such suits shall be tried and decided in the same manner as if Act IV. of 1840 had not been passed.

Calcutta, 1840:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXII. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 23d November, 1840.

An Act for the punishment of Vagrants within the Towns of Calcutta and of Madras, and the Islands of Bombay and Colaba extorting Alms by offensive and disgusting exhibitions and practices.

I. WHEREAS great inconvenience is experienced in the Towns of Calcutta and of Madras, and in the Islands of Bombay and Colaba from Mendicants who endeavour to extort alms by offensive and disgusting exhibitions and practices ;—

It is hereby enacted, that persons within the Town of Calcutta or of Madras, or within the Islands of Bombay and Colaba who shall seek to extort alms by offensively exhibiting any bodily ailment or deformity, or by any offensive or indecent practices, or by inflicting, or threatening to inflict, bodily injury on themselves, shall be liable, on conviction before any Justice of the Peace, to imprisonment with or without labor for a term not exceeding one calendar month.

II.

II. And it is hereby enacted, that all persons guilty a second time of any of the above offences, shall be liable, on conviction before a Justice of the Peace, to imprisonment with hard labor for a term not exceeding twice the period assigned for the first offence, and for the same term upon any subsequent conviction.

III. And it is hereby enacted, that persons guilty of any of the offences above mentioned who shall violently resist any Peace Officer attempting to apprehend them, shall be liable, on conviction before a Justice of the Peace, to imprisonment with or without hard labor for a term not exceeding three calendar months.

IV. And it is hereby enacted, that it shall be lawful for the Governor General in Council from time to time, by notice in the Gazette, to extend the provisions of this Act to any towns or districts besides the places specified in this Act.

Calcutta:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXIII. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 30th November, 1840.

An Act for executing within the local limits of the jurisdiction of Her Majesty's Courts Legal Process issued by authorities in the Mofussil.

I. WHEREAS great inconvenience has been experienced, in consequence of the difficulty of procuring the attendance as witnesses before the Mofussil Authorities of persons resident within the local limits of Her Majesty's Supreme Courts, and, in consequence of justice being often frustrated by reason of persons and property within such limits being exempted from process issued by such Authorities, which has also occasioned inconvenience to the inhabitants within such limits, in suits in the Mofussil Courts to which they are parties;—

It is hereby enacted, that any Writ, Warrant, or other Process issued by any Court, Judge, or Magistrate in the territories beyond the local limits of the Supreme Courts of Calcutta, Madras and Bombay respectively, may be executed within those limits in manner following—A copy of such Writ, Warrant, or other Process authenticated as such by the attestation of the Court, Judge, or Magistrate signing or issuing the same, accompanied by a certified translation in the

the English language, shall be presented to any Judge of Her Majesty's Courts, who may thereupon, under his hand and signature, indorse and direct the same to be executed within the local limits of any of Her Majesty's Courts by the Sheriff, or by any Justice of the Peace according to the nature of such Writ, Warrant or other Process.

II. And it is hereby provided, that upon the delivery of every such Writ, Warrant or Process so indorsed as aforesaid to any such Sheriff as aforesaid, every such Sheriff shall make a memorandum of the date of such delivery, and shall execute such Writ, Warrant or Process in like manner as if the same had originally issued from any of Her Majesty's Courts and had been delivered at the date as appearing by the memorandum; and such Sheriff shall make no distinction as to priority or otherwise between the execution of any Writ, Warrant or other Process originally issued from any of Her Majesty's Courts, and the execution of any Writ, Warrant or other Process, under this Act. But every Writ, Warrant and other Process whether original, or indorsed as aforesaid, shall, amongst each other, be subject to the same rules touching the mode and order of execution as are now established in respect of Writs, Warrants, and other Process originally issued from Her Majesty's Courts of Justice.

III. And it is hereby enacted, that every such Sheriff shall be liable to be proceeded against in Her Majesty's Courts of Justice for all matters touching the execution of any Writ, Warrant or other Process executed under this Act, in like manner as if the same had originally issued from any of Her Majesty's Courts of Justice. And all persons and property seized or detained under any Writ, Warrant or Process executed by virtue of this Act shall be dealt with in like manner as if such persons or property had been seized or detained under the

the like Writ, Warrant or other Process issued from any of Her Majesty's Courts of Justice.

IV. And it is hereby enacted, that all persons disobeying or obstructing the execution of any Writ, Warrant or other Process indorsed under this Act, shall be punishable in Her Majesty's Courts of Justice, in like manner as if the same had issued from such Courts; Provided always that, in the case of Process for the attendance of witnesses, Her Majesty's Courts shall be governed by the like rules touching expenses and other matters as are established in regard to Subpœnas issued from such Courts.

V. And it is hereby enacted, in the case of persons seized or detained by virtue of any Writ, Warrant or other Process executed under the authority of this Act by any Justice of the Peace or by any Sheriff, it shall be the duty of every such Sheriff or Justice of the Peace if so required by the indorsement of the Judge, to deliver the party in custody to such authority or persons as shall be particularly specified in such indorsement, and who shall have been charged with the execution of the Writ, Warrant or other Process by the authority originally issuing the same, and for that purpose to cause the party in custody to be conveyed to any place within the Company's territories beyond the local limits of the jurisdiction of Her Majesty's Courts.

VI. And it is hereby provided, that in the case of any Writ, Warrant or other Process required to be indorsed under the authority of this Act, it shall be lawful for the Judge who shall be required to indorse the same, to remit the same for amendment to the authority issuing the same if the same shall appear to be defective in any matter of form.

VII.

VII. And it is hereby provided, that in the case of any Writ, Warrant or other Process required to be indorsed under the authority of this Act, for the seizure or detention of any person, it shall be lawful for the Judge who shall be required to indorse the same to direct by indorsement that bail (the amount and number of Sureties to be specified in such indorsement) may be taken; and for this purpose to call for such documents and to make such enquiry as he shall think proper.

VIII. And whereas it is expedient, that offenders sentenced by the Mofussil authorities to imprisonment with or without hard labour, should be subjected to the most improved rules of prison-discipline, which cannot, in all cases, be conveniently done except in the prisons locally situate within the jurisdiction of Her Majesty's Supreme Courts, it is hereby enacted, that all Civil and Criminal Gaols and Houses of Correction within the jurisdiction of any of Her Majesty's Supreme Courts, shall, according to the nature of the case, be liable to be used by the Sheriff for the purposes of this Act, and the parties imprisoned therein under the authority of this Act shall be liable to the prison-discipline thereof, and all sentences of imprisonment passed by any Judge, Court or Magistrate in the territories of the East India Company beyond the local limits of Her Majesty's Supreme Courts, may be executed in whole or in part within any of the Gaols or Houses of Correction aforesaid, provided that a copy of the Warrant of Commitment or other Process authorizing the imprisonment be so indorsed as aforesaid, and such indorsement contain the necessary directions.

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ACT No. XXV. OF 1840.

Passed by the Right Hon'ble the Governor General of India in Council on the 28th of December, 1840.

For the better protection of the Abkaree Revenue within the Presidency of Fort William in Bengal.

I. WHEREAS it has been found necessary, with a view to make better provision for the protection of the Abkaree Revenue than is afforded by the existing system of management, to place the superintendence of certain Districts in a separate Commissioner acting under the direction and control of the Board of Customs, Salt and Opium, and whereas it is required to make provision by law for the extension and improvement of this system of management within the Presidency of Fort William in Bengal;—

It is hereby enacted, that whenever a Commissioner or Commissioners shall be appointed by the Governor of Bengal, or by the Governor or Lieutenant Governor of the N. W. Provinces, with the sanction of the Government of India, for the superintendence of the Abkaree Revenue, such Commissioner or Commissioners shall exercise within such Districts as may be assigned

assigned and prescribed from time to time by the said Governors or Lieutenant Governor the powers, authority and jurisdiction vested by the Regulations and Acts of the Government in Commissioners of the Land Revenue in all matters appertaining to the Abkaree Revenue.

II. And it is hereby enacted, that within the Districts so assigned to such Commissioner or Commissioners, the Governor of Bengal or Governor or Lieutenant Governor of the N. W. Provinces may appoint any duly qualified persons not being of the description specially provided for in Section XXXI. Regulation X. 1813, to be Superintendents of the Abkaree Revenue, and to vest them with the charge and management of the Abkaree Revenue under the orders of the said Commissioner within such local limits as to him may seem fit, and the persons so appointed shall exercise all the powers of Collectors in regard to this Revenue, excepting the adjudication of cases of contravention of the Laws relating to Abkaree.

III. And it is hereby enacted, that it shall be competent for the Governor of Bengal to vest any person appointed under the foregoing Clause to the charge and superintendence of the Abkaree Revenue with the power of adjudicating cases of contravention of the Abkaree Laws, in addition to the powers attaching to the office of Superintendent of Abkaree Revenue in the District or Districts assigned to him—provided that no such Superintendent when so vested with the powers of adjudication shall sentence any person to a fine exceeding 200 Rupees, whether commutable or otherwise, or to imprisonment for a term exceeding 3 months, except for a second offence under Section XVII. of this Act.

IV. And it is hereby enacted, that the warrant of any Officer authorized or especially appointed, to adjudicate cases of contravention of the Abkaree,

Laws

Laws certifying the conviction of any individual, with a specification of the offence proved and penalty adjudged, shall be authority for the levying of any fine imposed, as therein specified, and for the detention of the person therein described in the Civil Jail of the District as may be therein prescribed,—provided always that it shall be competent to the Commissioner, upon appeal by the parties concerned, or of his own motion, to call for the papers and revise the proceedings in any case decided by such Superintendent, and to alter or reverse the judgment passed thereon, and a like power shall be possessed and exercised by the Board of Customs, Salt and Opium, or by any other Board possessing like authority whenever they think proper.

V. And it is hereby enacted, that any Officer employed in the Abkaree Department above the rank of Jemadar of Peons, who shall receive information that any person without a license is engaged in the manufacture of fermented or spirituous liquors, or in the preparation of intoxicating drugs, or has on his premises fermented or spirituous liquors or intoxicating drugs in such quantity as may render such person liable to the suspicion of secretly and illicitly trafficking in such articles, shall and is hereby authorised and required to take the deposition of the informer in writing, and if the information so given shall appear credible, so as to justify such proceeding, it shall further be competent to such Officer to enter and search such premises as may be declared by the informer to contain the illicit articles specified in his deposition, and to seize all illicit stills and materials of the kind used in manufacturing liquors and preparing drugs as well as all fermented or spirituous liquors, or intoxicating drugs, and to arrest the owner or occupant of the premises, together with all parties concerned in the transaction who may be found on the premises.

VI. And it is hereby enacted, that except in cases already provided for by Section XVIII. Regulation VII. of 1824, if any person or persons shall by threats

threats or violence prevent the lawful arrest of any person by an Officer duly authorized to seize illicit stills, fermented or spirituous liquors, or intoxicating drugs and materials for the manufacture of the same, or shall procure by unlawful means his release after arrest, or shall obstruct any Officer duly authorized in making search for or seizure of any of the above mentioned illicit articles, or shall rescue such articles after seizure, or if the party found with any such illicit articles in possession, or any other person or persons shall resist such Officer in the execution of a legal process, such person or persons shall severally and respectively be liable on conviction before a Magistrate, to be sentenced for the same to pay a fine not exceeding 500 Rupees, commutable, if not paid, to imprisonment for a term not exceeding six months, provided that such person or persons shall be further liable, in the event of an affray or breach of the peace occurring, in consequence of his or their resistance, on conviction of the same before a competent tribunal to such punishment as is prescribed in the general rules applicable to cases of affray and breach of the peace in addition to the penalties above prescribed for the resistance of process.

VII. And it is hereby enacted, in modification of Clause 6, Section XXII. Regulation X. of 1813 of the Bengal Code, that if any person shall wilfully and maliciously give false information in respect to there being an illicit still or illicit stills, or fermented or spirituous liquors, or intoxicating drugs or materials prepared for the manufacture of spirituous liquors and drugs in any premises, and so procure that such premises shall be searched to the injury and vexation of the owners thereof, or of any other person or persons whatsoever, such false informer shall, besides being subject to any other penalties or damages to which he would be subject under the general law, be liable to imprisonment with or without labor for a term not exceeding two years, and to fine not exceeding 500 Rupees, commutable to a further term of imprisonment for six months if not paid.

VIII.

VIII. And it is hereby enacted, that whenever any Officer of the Abkaree Department duly authorized under Section V. of this Act shall arrest any person charged with an infraction of the Laws for the protection of the Abkaree Revenue, or shall seize any still, or fermented or spirituous liquors or intoxicating drugs, or enter any premises for the purpose of searching for such illicit articles, he shall make a full report of all the particulars of such arrest or seizure or search to his official superior, within twenty-four hours after the transaction has occurred.

IX. And it is hereby enacted, that whenever any person may be arrested by an Officer employed in the Abkaree Department or by any other Officer of other Departments duly empowered to make seizure of illicit stills or spirituous liquors, or intoxicating drugs, or materials prepared for the purpose of manufacturing spirituous liquors or intoxicating drugs, the person making the arrest shall be bound to carry the party arrested with all convenient despatch to the Officer of the Department who may be competent to try the case, and no person so arrested shall be released until the case shall have been brought to judgment in the manner provided by Law.

X. And it is hereby enacted, that any Officer who shall neglect to report all the particulars of an arrest, seizure, or search within 24 hours after the transaction has occurred, or who shall delay carrying the person arrested to the proper Officer with all convenient despatch, or who shall release or connive at the escape of the person arrested shall be liable, on conviction, to dismal from his situation, and to pay a fine not exceeding 200 Rupees, and to imprisonment for a term not exceeding three months, and in case of non-payment of the fine, to further imprisonment not exceeding three months, and the sentence shall be adjudged by any Officer competent to adjudicate cases of contravention of the Abkaree Laws.

XI. And it is hereby enacted, that it shall be lawful for any Officer employed in the Abkaree Department, to enter and inspect at any time, by day or by night, the shop or premises in which any licensed Abkar shall carry on the sale or manufacture of fermented or spirituous liquors, or intoxicating drugs or liquors, in order to satisfy himself that nothing is going on in contravention of the Abkaree Laws, or of the conditions of the license.

XII. And it is hereby enacted, that if any Officer of the Abkaree Department be convicted before the Magistrate of any District, of having vexatiously and unnecessarily seized the goods of any person on the pretence of seizing or searching for illicit stills, spirituous liquors, intoxicating drugs, or the materials for manufacturing the same, or of having vexatiously and unnecessarily arrested any person, or of committing any other excess not required for the execution of his duty, every such Officer shall, besides dismissal, be punished with imprisonment not exceeding six months, and with fine not exceeding 200 Rupees, commutable, if not paid to a further imprisonment not exceeding six months.

XIII. And it is hereby enacted, that whenever in this Act or in any other law the terms "Officers employed in the Abkaree Department," are used they shall be deemed and construed to apply to such Officers as receive salary from and are appointed by the persons in charge of the Abkaree Department in the District, or such Officers as the Commissioner of the Abkaree Revenue may by special delegation or appointment empower to act in relation to this branch of the Revenue.

XIV. And it is hereby enacted, that every person holding a license for the manufacture or sale of fermented or spirituous liquors or intoxicating drugs,

drugs, shall preserve such license at the shop or premises specified in the body of the license, and shall exhibit the license on the demand of any Abkaree Officer, who shall desire to inspect the same, and any such licensed manufacturer or vender who shall refuse, or be unable to produce his license on the demand of any Abkaree Officer, shall be liable on conviction before a Magistrate to a fine not exceeding 200 Rupees, or to imprisonment for a term not exceeding three months, and in case of non-payment of the fine to further imprisonment not exceeding a like term.

XV. And it is hereby enacted, that one moiety of all fines realized from persons convicted of the illicit possession or manufacture or sale of fermented or spirituous liquors or intoxicating drugs, excepting Opium, and of the proceeds from sale of articles confiscated, shall upon adjudication of the case be awarded to the Officer or Officers who may have apprehended the offender or seized the illicit articles, and the other half shall be given to the informer as provided in Clause 8, Section XXII. Regulation X. of 1813, and if no fine be realized, the Commissioner may recommend through the Board of Customs, Salt and Opium such reasonable reward, not exceeding the sum of 200 Rupees in each case as may appear to him fit,—provided however, that it shall be competent to the Board of Customs, Salt and Opium, to prescribe by General Order what classes of Officers of the Department shall receive reward and what classes shall have no title to participate therein.

XVI. And it is hereby enacted, that any Officer employed in the Abkaree Department, who shall be convicted of conniving at the manufacture or sale of fermented or spirituous liquors without license, or by any licensed manufacturer or vender contrary to the terms of such license, shall be liable to the same penalties that would be incurred by the offender at whose act in contravention of the law he so connived.

XVII.

XVII. And it is hereby enacted, that whenever any person shall be convicted of an infraction of the laws for protection of the Abkarce Revenue after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the Dewanny Jail for a period of six months, and a like punishment of six months' imprisonment shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second, and the warrant of the Officer adjudicating any case under the provisions of this Section shall be authority for the Judge or other Officer in charge of the Dewanny Jail to hold the person described therein in confinement in such Jail, and for such time as may be specified and required in the said warrant.

Calcutta, 1841 :—Printed at the Bengal Military Orphan Press, by C. H. Huttmann.

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ACT No. I. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 12th April, 1841.

An Act for facilitating the collection of the Revenue of Government and defining the interest intended to be conveyed by public sales for the realization of arrears of the Public Revenue in Putteedarree Estates.

Preamb'e I. THE Regulations in force authorize the application of duress for enforcing the payment of arrears of the public revenue, only against the person and property of the Contracting Lumberdar, leaving him to proceed against the Putteedars by suit or distraint. But with reference to the peculiar nature of these Coparcenaries the existing enactments appear to be insufficient on the one hand for the protection of the rights of the Putteedars, and on the other hand for the punctual realization of the dues of Government. The Regulations are also deficient in not authorizing with sufficient distinctness the sale or transfer of the Puttees of defaulting Putteedars in Putteedarree Estates, and in not defining the interest intended to be conveyed by public sales of such Estates.

II. A Putteedarree Estate in this Act is held to be an Estate which consists of two or more separate portions or Puttees, or of which there may be proprietors

proprietors, possessed of separate properties and holding direct of the Government, but not parties in their own names to the contract with the Government for payment of the public revenue. The proprietor who is a party in his own name is called a Lumberdar, and the proprietor who is not a party in his own name is called a Putteedar.

III. It is hereby enacted, that the following modes of duress may be enforced against all Putteedars whose tenure and interest may have been defined by a Settlement formed according to Regulation VII. of 1822 as modified by Regulation IX. of 1833, whether every such Putteedar be in sole occupation of his Puttee, or hold it in common with others.

1st. Issue of Dustucks in the same manner, and under the same limitation, as authorized by the rules in force for Lumberdars.

2d. Arrest, detention, imprisonment, distraint and sale of personal property as now authorized to be enforced against Lumberdars.

3d. Transfer of the defaulting Puttee in perpetuity to the members of any other Puttee which may not be in arrear.

4th. Annulment of the Settlement as regards the defaulting Puttee, and lease thereof to the members of any other Puttee which may not be in arrear or to a stranger for any term not exceeding fifteen years.

5th. Sale of the defaulting Puttee by public auction in which case the members of the remaining Puttees who may not be in arrear are authorized to bid.

IV. And it is hereby enacted, that on occasion of the sale by public auction of any Puttee, if the lot shall have been knocked down to a stranger, any Putteedar or other member of the coparcenary not being himself in arrear may claim to take the said Puttee at the sum last bid, provided that the said demand of pre-emption be made on the day of sale and before the Collector shall have left the office, and provided that the claimant fulfil all the other conditions of the sale.

V. And it is hereby enacted, that the above methods be employed by the Collector or other Officers vested with the powers of Collector, under such limitation and control as Government or other superior revenue authorities shall see fit to prescribe or enforce.

VI. And it is hereby enacted, that the sale of any Puttee by public auction, shall be effected in respect to the notice to be issued, the authority to be obtained, and the mode of conducting the sale according to the rules prescribed by Law from time to time for the sale of an entire Mehal, and the Puttee after the sale shall have been duly confirmed shall be the absolute property of the purchaser, save and except the rights of those Ryots whose right to the permanent occupancy of their lands may have been recognized, and the rates of rent payable by whom may have been adjusted and recorded at the last settlement.

VII. And it is hereby enacted, that in case of the lease or other temporary transfer of any Puttee as above said no member of that Puttee shall be entitled to cultivate any land therein during the term of such transfer, or in case of absolute sale no member of the Puttee shall be entitled to hold or cultivate any land therein from and after the month of Bysack next succeeding such sale unless the said member of such sold or transferred Puttee shall first execute a

written

written engagement to pay rent to the purchaser or transferree at the rate demanded by the purchaser or transferree. Provided that it shall be competent to the Collector, subject to the orders of the Commissioner, and the Sudder Board of Reveuue, if the rate cannot be fixed by private bargain between the parties to cause the same to be fixed by a jury of the vicinage in the mode directed by Sections V. to X. Regulation IX. of 1833.

VIII. And it is hereby enacted, that a copy of the Jumma Wasil Bakee and detailed Kuteonee of the Tehsildar signed and sealed by him, and countersigned by the Canoongoes and Putwarry, exhibiting in detail the amount paid by and arrear due from each Puttee shall be taken to be sufficient evidence of the arrear due from that Puttee, and these papers shall invariably be filed with the Collector's proceedings.

IX. And be it enacted, that the Collector be empowered to give possession to all purchasers and transferrees under this Act in the mode authorized by Clause III., Section XXIII. of Regulation VII. of 1822.

X. And it is hereby enacted, that nothing contained in this Act shall bar the indefeasible right of Government to hold the entire body of proprietors and the entire estate responsible for the amount of the whole Jumma, and to enforce the existing regulations for the transfer or sale of the whole estate whenever it shall appear to them just and expedient. In every such case it is hereby declared in modification of Regulation XI. of 1822, that the entire proprietary rights of every member of the coparcenary shall be annulled and forfeited, and the provision of Section VII. of this Act shall be applicable to every member of the Coparcenary.

XI. And it is hereby enacted, that the Governor General in Council may extend the provisions of this Act to any district to which with reference to the nature of the tenures prevalent therein its extension may be expedient, although no Settlement of such district may have been made under Regulations VII. of 1822, and IX. of 1833, and the Order of Government, shall be sufficient authority for such extension.

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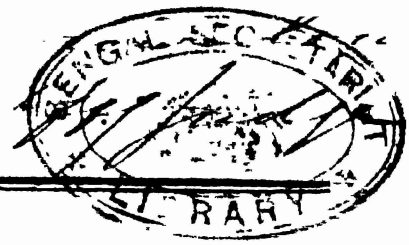

ACT No. V. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 31st of May, 1841.

An Act for the greater uniformity of the process upon Trials for State Offences, and the amendment of such process in certain cases.

I. WHEREAS it is expedient that the rules of process for the trials of state offences should be modified with a view to uniformity at the different Presidencies; and whereas some of the rules heretofore in force at particular Presidencies require amendment;—

It is hereby enacted, in modification of all regulations and parts of regulations affecting process upon trials for state offences, that it shall be competent for the ordinary tribunals to try charges of treason, rebellion or other crime against the state.

II. And it is hereby enacted, that it shall be competent for the Government of any Presidency to issue a commission for the trial of any offences of treason, rebellion or crime against the state by one or more Judges, together with such Law Officers as shall be required or without any such Officer, according as it may be deemed expedient.

III.

III. And it is hereby enacted, that the Courts convened under such Commissions are to try the prisoners brought before them in the same manner as in trials before the Ordinary Courts; and shall exercise all powers and authorities vested in such Courts, except that their sentence, whether of acquittal or punishment, shall in every instance be reported with their proceedings to the highest Court of the East India Company for Criminal matters of the Presidency, previous to carrying the same into execution; and they are to be guided as to the place where they are to assemble, the persons to be tried by them, and all other particulars not provided by any Regulation of the respective presidencies, or by any Act of the Governor General of India in Council, by the special orders which they may receive from the executive Government, or from the highest Court of the East India Company for Criminal matters in the Presidency.

IV. And it is hereby enacted, that in case of the death, or of the absence from indisposition or other cause, of any of the Judges, or Law Officers of the Courts which may be appointed to try offenders under this Regulation, the remaining Judge or Judges, or Law Officer or Officers, shall be competent to form a Court, and proceed with the trial or trials, until provision can be made by the Government of the Presidency for supplying the place of such Judge or Judges, or Law Officer or Officers, if any such provision shall be deemed necessary; or, if no such provision be made, the powers and proceedings of the said Courts shall not be affected by the death or absence of such Judge or Judges, or Law Officer or Officers.

V. And it is hereby enacted, that the highest Courts of the East India Company for Criminal matters of the respective Presidencies on the receipt of any trials referred to them under this Act, are to proceed thereupon according to the rules in force with respect to other trials referred to them; except that they

they are in every instance to report their sentences to the executive Government of the Presidency for the time being; and are to wait the orders of Government for the period of three calendar months before they direct their sentence to be carried into execution.

VI. And it is hereby enacted, that the Magistrates of the several Zillahs and Cities, where any person or persons shall be charged with the crimes mentioned in this Act, shall give immediate notice thereof to the Government of the Presidency to which their several Districts or Cities belong, and shall pay immediate and strict attention to all orders which may be transmitted to them by their respective Governments for the apprehension of persons charged as aforesaid, or for making any enquiry respecting such persons, or for committing them to take their trials before the Ordinary Courts, or before the Special Courts described in this Act.

VII. And it is hereby enacted, that this Act shall not be construed to alter or affect the jurisdiction of any of Her Majesty's Supreme Courts of Justice.

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ACT No. VI. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 7th June, 1841.

An Act for prohibiting the importation of Rum and Rum Shrub into the Presidency of Fort William in Bengal.

I. IT is hereby enacted, that if any person after the passing of this Act, lands or attempts to land, or shall introduce by land in any part of the Territories subject to the Government of the Presidency of Fort William in Bengal, any Rum or Rum Shrub, which is the produce of any foreign Country, or of any British possession into which foreign Sugar or Rum can be legally imported, such Rum or Rum Shrub shall be seized by the Collector of the Customs, or by any other Officer authorized to seize and detain Contraband Goods, and shall be brought to confiscation according to the Rules in force for confiscating such Goods, unless the District in which such Rum or Rum Shrub is landed, or in which an attempt has been made to land such Rum or Rum Shrub, be a District in which the Governor General of India in Council has authorized the importation of such Rum or Rum Shrub, and it shall be lawful for the Governor General of India in Council to authorize the importation of such Rum and Rum Shrub into any District of the Territories aforesaid by an Order in the Official Gazette.

II.

II. And it is hereby enacted, that if any owner of Rum or Rum Shrub, the produce of the said Territories, or the duly authorized Agent of such Owner, be desirous to obtain a Certificate of origin from the Collector or Assistant Collector of the Land or Customs Revenue of any District within the said Territories, or from any other Officer appointed by the Governor General of India in Council to give such Certificates, such Owner or Agent shall, in the presence of the Officer from whom he desires to obtain such Certificate, make and subscribe a Declaration in the Form contained in the Schedule hereunto annexed marked A, and to the said Declaration shall be appended a Certificate to its verity from any Government Officer who may be attached to the Distillery where such Rum or Rum Shrub is declared to have been manufactured in the form prescribed in the said Schedule A.

III. And it is hereby enacted, that if the District be one into which the Governor General of India in Council has not, by any Order, authorized the importation of Foreign Sugar or Rum, or of Sugar or Rum the growth or produce of any British possession into which Foreign Sugar or Rum can be legally imported, then the Officer before whom such a Declaration as is aforesaid shall have been made, shall grant under his hand and seal to the Declarant a Certificate in the form contained in the Schedule hereunto annexed marked B.

IV. And it is hereby enacted, that every person who intends to ship Rum or Rum Shrub from any place within the said Territories for any part of the United Kingdom, shall be entitled to produce to the Collector of Customs at that place, or to any other Officer who may have been appointed by the Governments of the respective Presidencies to act on that behalf in place of the Collector of Customs a Certificate, such as is above described, and also in

the

the presence of the Officer to whom he has so produced such Certificate to make and subscribe a Declaration in the form contained in the Schedule hereunto annexed marked C.

V. And it is hereby enacted, that the Officer to whom such a Certificate shall have been so produced, and before whom a Declaration in the last mentioned form shall have been so made and subscribed, shall, unless he see cause to deem such Declaration fraudulent and untrue, grant to the person who has made the last mentioned Declaration a Certificate in the form contained in the Schedule hereunto annexed marked D.

VI. And it is hereby enacted, that the Owner of Rum or Rum Shrub intended for exportation under this Act, or the duly authorized Agent of such Owner shall not be entitled to any of the Certificates described in this Act unless such Rum or Rum Shrub shall be the produce of a Distillery worked according to law in the European method under License from the Board or other authority vested with the management of the Revenue derived from the Abkarry or Tax on Spirits.

VII. And it is hereby enacted, that the Rum and Rum Shrub manufactured for exportation to the United Kingdom under this Act at any Licensed Distillery shall be manufactured pure without admixture of Spirits made from Rice, Grains, or any other substance or substances not being the produce of the Sugar Cane or of the Date or Palm-tree, and shall be so declared and verified at the time of application for a Certificate of Origin according to the form of Schedule A.

VIII. And it is hereby enacted, that if any Rum or Rum Shrub that may be brought to any Custom House for exportation under this Act shall be found

found to be adulterated or mixed contrary to the above prohibition, the same with the casks or materials in which it is contained shall be seized and confiscated, and the party or parties upon whose Declaration Certificate of manufacture free from adulteration or mixture may have been granted for the admission of such Rum or Rum Shrub to the privilege of exportation under this Act, as well as the party or parties who may have verified such Declaration, shall be proceeded against for the false and fraudulent Declaration as hereinunder prescribed.

IX. And it is hereby enacted, that any person who shall in making any Declaration under the authority of this Act, knowingly affirm an untruth, shall on conviction thereof before such Court as would be competent to try such person for perjury, be punished as in cases of perjury; and every person procuring another person to affirm such untruth shall be liable to be punished as in cases of subornation of perjury, and any Officer of Government subscribing an attestation to the verity of such Declaration knowing the same to be untrue, shall be subject to a like penalty as the false Declarant, besides dismissal from the employment of Government.

SCHEDULE A.

I, A B, solemnly declare that all the Rum or Rum Shrub hereinunder described is the produce of the Licensed Distillery named ———— in the District of ————, and that the said Rum or Rum Shrub is the produce of the Sugar Cane, Date, or Palm-tree, and wholly free from any admixture of Spirits manufactured from Rice, Grains, or any other substance whatever.

(Signed) A B.

The —— day of —— 18—.

I,

* I, B B, Government Officer in charge on the part of Government of the ——— Distillery, do hereby certify that the above is a true and correct Declaration.

B B,

Govt. Officer attached to the

——— *Distillery.*

Description of the ——— *to which the above Declaration relates.*

Quantity in Gallons.	Quality.	Average strength by Skyes's Hydrometer.	Number and denomination of Packages.	Marks on Packages.

(Signed) A B.

The —— day of ——— 18——.

Collector's number ——.

Collector's date —— of —— 18——.

(Signed) Y Z, *Collector.*

Seal of the Collector.

SCHEDULE B.

I, C D, Collector of Land Revenue (or Collector of Custom Revenue, or being an Officer appointed by the Governor General of India in Council to

* This Declaration must be drawn out before the Rum leaves the Distillery in order that the attestation of the Government Officer may be attached.

to act in this behalf) for the District of ———— do hereby in conformity with the provisions of Act ———— grant this Certificate under my hand and seal, that the Rum or Rum Shrub described in the Declaration hereunto annexed, which is sealed with the seal of this office, numbered ———— of —— 18—, ———— dated the —— of ———— 18 ———— and signed by ————, Manager or Owner of the Licensed Distillery called ———— is the produce of the District of ———— and is declared to be free from any admixture of Spirits manufactured from other substance than the Sugar Cane, Date or Palm-tree, and that the importation of Foreign Sugar and Rum and of Sugar and Rum the growth or produce of any British possessions into which Foreign Sugar and Rum can be legally imported, is prohibited in the said District of ————.

L. S.

This —— day of ———— 18 ——. (Signed) C D.

SCHEDULE C.

I, E F, Shipper of the Rum or Rum Shrub hereinunder described, solemnly declare, that all the Rum or Rum Shrub hereinunder described, is, to the best of my knowledge and belief, the same Rum or Rum Shrub to which the Certificate now produced by me relates.

(Signed) E F.

Description of ———— *to which this Declaration relates.*

Quantity in Gallons.	Quality.	Average strength by Sykes's Hydrometer.	Number and denomination of Packages.	Name of Ship or Vessel.	Name of Master of Ship or Vessel.

The —— day of ———— 18 ——. (Signed) E F.

SCHEDULE D.

SCHEDULE D.

I, R W, Collector of Customs, (or being an Officer appointed by the Governor General of India in Council to act in this behalf) for the Port of ————————, certify under my hand and seal, that there has been produced to me by E F, the Shipper of the Rum or Rum Shrub hereinunder described, a Certificate under the hand and seal of C D, Collector of Land Revenue, (or Collector of Custom Revenue, or being an Officer appointed by the Governor General of India in Council to act in this behalf) for the District of ————————, in the Territories forming part of the Presidency of Fort William or Agra, which Certificate certifies that the said Rum or Rum Shrub is of the produce of the said District, and is declared to be free from any admixture of Spirits manufactured from other substance than the Sugar Cane, Date or Palm-tree, and that the importation of foreign Sugar and Rum, or Sugar and Rum the growth or produce of any British possession into which foreign Sugar and Rum can be legally imported, is prohibited in the said District.

L. S. (Signed) R W,

Collector of Customs.

The —— day of ——— 18 .

Description of the ——— to which the Certificate relates.

Quantity in Gallons.	Quality.	Average Strength by Sykes's Hydrometer.	Number and denomination of Packages.	Name of Ship or Vessel.	Name of Master of Ship or Vessel.

(Signed) R W,

Collector of Customs.

Calcutta, 1841 :—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. VII. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 14th of June, 1841.

An Act for a more uniform and an improved process for taking the examination of absent witnesses.

I. IT is hereby enacted, that all Regulations and parts of Regulations for taking the examination of absent witnesses in any Presidency, are hereby repealed.

II. And it is hereby enacted, that it shall be lawful for any Court within the Territories under the Government of the East India Company, and the several Judges thereof, in every Civil proceeding depending in such Court, upon the application of any of the parties to such proceeding, to order the examination, upon interrogatories or otherwise, before any Officer of and such Court, or other person or persons named in such order, of any witnesses within the jurisdiction of the Court where the proceeding shall be depending, or to order a Commission to issue to any subordinate Court for the examination of such witnesses upon interrogatories or otherwise, or to order a Commission to issue to any other Court for the examination of witnesses at any place or places out of such jurisdiction upon interrogatories or otherwise, and

by

by the same or any subsequent order or orders to give all such directions for taking such examinations as well within the jurisdiction of the Court wherein the proceeding shall be depending as without as may appear reasonable and just; provided always that any Court to whom any such Commission shall be directed shall take the examination in open Court in all cases where witnesses are able to attend in Court and are not exempted from attendance by law, absolutely, or at the discretion of the Court. Provided also that such Commissions as aforesaid for the examination of witnesses out of such jurisdiction may be directed otherwise than to some Court under special circumstances which may appear to the Court issuing the Commission to render such special direction expedient. Provided also that all Commissions issued and Orders made by any Court of the East India Company, and which are required to be executed within the local limits of any of Her Majesty's Supreme Courts, shall be directed in manner hereinafter mentioned.

III. And it is hereby enacted, that when any Order shall be made for the examination of witnesses within the jurisdiction of the Court wherein any such proceeding as aforesaid shall be depending by the authority of this Act, it shall be lawful for the Court or any Judge thereof in and by the first Order to be made in the matter, or any subsequent Order to command the attendance of any person to be named in such Order, and to direct the attendance of any such person to be at his own place of residence or elsewhere, if necessary or convenient so to do, and to produce all necessary documents and papers. And the wilful disobedience to any such Order shall be deemed a contempt of Court and punishable as in other cases of refusing or neglecting to give testimony. Provided always that every person whose attendance shall be required under this Act shall be entitled to the like payment for expenses and loss of time as upon attendance in Court in cases where such expenses are now allowed.

IV.

IV. And it is hereby enacted, that it shall be lawful for every Court or person authorized to take the examination of witnesses by any Order or Commission issued in pursuance of this Act, and they are hereby authorized and required to take all such examinations upon oath or affirmation where an affirmation is admissible or required upon a trial, and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and every person causing or procuring another person to commit the offence of perjury hereby defined shall be guilty of subornation of perjury.

V. And it is hereby enacted, that before any Order or Commission for the examination of any witness under this Act shall be issued the Court or Judge issuing the same shall be satisfied that there is good reason for believing that the witness will be unable to attend at the usual time for examination by reason of absence from the jurisdiction, sickness or other cause allowed by law. And before granting any such Commission, the Court granting the same shall make particular enquiry as to the present residence of the witness whose deposition is to be taken under such Commission, and as to the Court of the same degree as the Court granting such Commission, or of inferior degree to such Court which may be nearest to the place of residence of the witness, and the Commission shall ordinarily be directed to such Court of equal or inferior degree as may most conveniently execute the same. Provided however that if there be doubt as to which is the most convenient Court of equal or inferior jurisdiction, such Commission may be directed to the Judge having jurisdiction within the district within which the Commission is to be executed. And the Judge shall at his discretion execute the Commission in his own Court, or direct it to any subordinate Court within his district, which shall have the same effect for all the purposes of this Act as if

the Commission had in the first instance been directed to such subordinate Court. And no deposition taken under this Act, except as hereinafter mentioned, shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant without collusion more than 50 coss from the place where the Court is held, or exempted by law, absolutely or at the discretion of the Court, from personal appearance in Court, or unless the Court shall at its discretion dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same; and after the witness shall be produced, and shall have delivered his testimony, it shall be lawful for the Court at its discretion to authorize the reading of the deposition. And all depositions taken under this Act, being duly certified, may be read, at the discretion of the Court, without proof of the signature to such certificate.

VI. And it is hereby enacted, that any Court other than one of Her Majesty's Courts, or any Judge thereof, may issue such Commissions as aforesaid, and such Orders as are indicated in the second and third Sections of this Act to be executed within the local limits of the jurisdiction of any of Her Majesty's Courts, and all such Commissions and Orders except when directed otherwise than to a Court, shall be directed to a Court of Requests having jurisdiction within such limits or any part thereof.

VII. And it is hereby enacted, that such Commissions and Orders as aforesaid may be issued for execution under this Act within the territories of Princes and States in alliance with the East India Company, and all persons within

within such last mentioned territories being in the service of the East India Company are hereby required to pay obedience thereto, and for disobedience thereof shall on being found within the jurisdiction of the Court, or Judge issuing any such Commission or Order be punishable in like manner, as if such offence had been committed within such jurisdiction; and for giving false testimony under the same shall be punishable by any Court of Justice within the territories of the East India Company.

VIII. And it is hereby enacted, that whenever the evidence of any absent witness shall be required out of the jurisdiction of the Court in which the proceedings for which the evidence is wanted may be pending and the Commission shall be directed to any Court, such Court may punish the wilful disobedience of any such Order as aforesaid as a contempt notwithstanding it shall not itself have made such Order, with the same amount of punishment as in other cases of refusing or neglecting to give testimony.

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ACT No. VIII. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 21st of June, 1841.

An Act to enable Her Majesty's Supreme Courts within the Territories of the East India Company to give relief against adverse claims made upon persons having no interest in the subject of such claims.

I. WHEREAS it often happens that a person sued at Law for the recovery of Money or Goods wherein he has no interest, and which are also claimed of him by some third party, has no means of relieving himself from such adverse claims but by a suit in Equity against the Plaintiff and such third party, usually called a Bill of Interpleader, which is attended with expence and delay;

It is hereby enacted, that upon application made by or on the behalf of any Defendant sued in any of Her Majesty's Supreme Courts in any action of Assumpsit, Debt, Detinue, or Trover, such application being made after declaration and before plea by Affidavit or otherwise, showing that such Defendant does not claim any interest in the subject matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who has

has sued or is expected to sue for the same, and that such Defendant does not in any manner collude with such third party, but is ready to bring into Court or to pay or dispose of the subject matter of the action in such manner as the Court (or any Judge thereof) may order or direct, it shall be lawful for the Court, or any Judge thereof, to make rules and orders calling upon such third party to appear and to state the nature and particulars of his claim, and maintain or relinquish his claim, and upon such rule or order to hear the allegations as well of such third party as of the Plaintiff, and in the mean time to stay the proceedings in such action, and finally to order such third party to make himself Defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues, and also to direct which of the parties shall be Plaintiff or Defendant on such trial, or with the consent of the Plaintiff and such third party, their Counsel or Attornies to dispose of the merits of their claims, and determine the same in a summary manner, and to make such other rules and orders therein as to cost and all other matters as may appear to be just and reasonable.

II. And it is hereby enacted, that the judgment in any such action or issue as may be directed by the Court or Judge, and the decision of the Court or Judge in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

III. And it is hereby enacted, that if such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith, or shall neglect or refuse to comply with any rule or order to be made after appearance, it shall be lawful for the Court or Judge to declare such third party, and all persons claiming by, from, or under him to be for ever barred from prosecuting his claim against the original Defendant, his Executors or Administrators; saving nevertheless the right or claim of such third

third party against the Plaintiff; and thereupon to make such order between such Defendant and the Plaintiff, as to costs or other matters, as may appear just and reasonable.

IV. And it is hereby provided, that every order to be made in pursuance of this Act by a single Judge not sitting in open Court, shall be liable to be rescinded or altered by the Court in like manner as other orders made by a single Judge.

V. And it is hereby enacted, that if upon application to a Judge, in the first instance or in any later stage of the proceedings, he shall think the matter more fit for the decision of the Court, it shall be lawful for him to refer the matter to the Court, and thereupon the Court shall and may hear and dispose of the same in the same manner as if the proceeding had generally commenced by the rule of Court instead of the order of a Judge.

VI. And whereas difficulties sometimes arise in the execution of process against Goods and Chattels issued by or under the authority of the said Courts, by reason of claims made to such Goods and Chattels by Assignees of Bankrupts and other persons not being the parties against whom such process has issued, whereby Sheriffs and other Officers are exposed to the hazard and expence of actions; and it is reasonable to afford relief and protection in such cases to such Sheriffs and other Officers, it is therefore hereby further enacted, that when any such claim shall be made to any Goods or Chattels taken or intended to be taken in the execution under any such process or to the proceeds or value thereof, it shall and may be lawful to and for the Court from which such process, issued upon application of such Sheriff or other Officers made before or after the return of such process, and as well before as after any action brought against such Sheriff or other Officer, to call before them

them by rule of Court as well the party issuing such process as the party making such claim, and thereupon to exercise for the adjustment of such claims and the relief and protection of the Sheriff or other Officer, all or any of the powers and authorities hereinbefore contained, and make rules and decisions as shall appear to be just, according to the circumstances of the case, and the costs of all such proceedings shall be in the discretion of the Court.

VII. And it is hereby enacted, that all Rules, Orders, Matters and Decisions to be made and done in pursuance of this Act except only the Affidavits to be filed, may together with declaration in the cause if any, be entered of record with a note in the margin, expressing the true date of such entry, to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such Rule or Order, and every such Rule or Order so entered shall have the force and effect of a judgment except only as to becoming a charge on any Lands, Tenements or Hereditaments ; and in case any costs shall not be paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, his Agent or Attorney, execution may issue for the same by Fieri Facias, or Capias ad satisfaciendum, adapted to the case, together with the costs of such entry, and of the execution if by Fieri Facias, and such Writ or Writs may bear Teste on the day of issuing the same, whether in term or vacation, and the Sheriff or other Officer executing any such Writ shall be entitled to the same fees, and no more as upon any similar Writ grounded upon a judgment of the Court.

Calcutta, 1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. IX. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 28th of June, 1841.

An Act concerning the adjudication of certain penalties imposed by Act XXV. of 1840, *for the better protection of the Abkaree Revenue within the Presidency of Fort William in Bengal.*

I. IT is hereby enacted in modification of Section XIV. Act XXV. of 1840, that offenders punishable under the said Section of the said Act, shall be liable to a fine not exceeding 200 Rupees, or to imprisonment for a term not exceeding three months, and in case of non-payment of the fine, to imprisonment not exceeding the same term. And the sentence shall in every case, be adjudged by a Superintendent of Abkaree Revenue, indicated in Section II. of the said Act.

Calcutta, 1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. X. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 5th July, 1841.

An Act for prescribing the Rules to be observed, in order that ships or vessels belonging to ports within the territories, under the Government of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council, made in pursuance of the Stat. 3d and 4th Victoria Ch. LVI.

1. WHEREAS by a Statute passed in the 3d and 4th years of Her Majesty Queen Victoria, entitled "An Act to regulate "the trade of ships built and trading within the limits of the "East India Company's Charter," it is enacted "that it shall "be lawful for the Governor General of India in Council, by "Proclamation, to declare that all ships or vessels built or to be "built within the limits of the Charter of the East India "Company, being owned by Her Majesty's subjects for whom "the said Governor General in Council has power to legislate, Preamble.

and.

" and belonging, under the Regulations hereinafter provided " for, to any ports in the territories under the Government " of the said Company, shall be deemed to be British ships for " all the purposes of trade within the said limits, including the " Cape of Good Hope, and the territories and dependencies " thereof; provided that upon such declaration being made the " said Governor General in Council shall, and the said Go- " vernor General in Council is hereby accordingly empowered " to make Regulations, to be enforced by suitable penalties, " concerning the registering, licensing and ascertaining the " admeasurement of the tonnage and burden, and generally for " the trading within the limits aforesaid of such ships or vessels." And whereas it is further enacted in the same Statute as follows, that is to say, " And whereas it may be expedient to admit to " similar privileges and advantages any ships or vessels belong- " ing to Native Princes or States in subordinate alliance with, " or having subsidiary treaties with the East India Company, or " owned by subjects of any such Princes or States, be it therefore " enacted that the Governor General of India in Council may " by such Regulations as aforesaid, such regulations being " subject as aforesaid, admit to the privileges and advantages of " British ships for the purposes of trade within the limits of the " Charter of the said Company, including the Cape of Good " Hope, and the territories and dependencies thereof, or to any " of such privileges and advantages, any ships or vessels belong- " ing to such Princes or States, or any of them, or owned by " subjects of any such Princes or States; but any such Regula- " tions shall provide for the granting to such ships or vessels fit " and convenient licences or passes, and generally for the trading

within

"within the limits aforesaid of such ships or vessels." And whereas in pursuance of such enactments it is expedient to frame such Regulations as are mentioned therein the compliance with which shall be required in order that ships or vessels may be deemed British ships, or be admitted to the privileges and advantages of British ships under such Proclamation as aforesaid;

Ships to be Registered. Certificate of Registry.

It is hereby enacted, that no ship or vessel shall be deemed a British ship under such Proclamation as aforesaid (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof) unless the person or persons claiming property therein shall have caused the same to have been registered at some one of the ports hereinafter mentioned within the territories of the East India Company, and shall have obtained a certificate of such registry from the person or persons authorised to make such registry and grant such certificate as hereinafter directed; the form of which certificate shall be as follows:

"This is to certify, that in pursuance of the Act No. X of 1841, of the Governor General of India in Council (here insert the names and occupation and residence of subscribing owners) having made and subscribed the declaration required by the said Act and having declared that (he or they) together with (names, occupations and residence of non-subscribing owners,) (is or are) sole owner or owners, in the proportions specified on the back hereof, of the ship or vessel called the (ship's name) of (place at which the vessel shall be registered) which is of the burthern of (number of tons), and whereof (master's name) is

master

master, and that the said ship or vessel was (when and where built) and (name and employment of Surveying Officer) having certified to us, that the said ship or vessel has (number) decks and (number) masts, that her (here insert the measurement as ascertained by the rules hereinafter mentioned) that she is (how rigged) rigged with a (standing or running) bowsprit, is (description of stern) sterned, (carvel or clincher) built, has (whether any or no) gallery, and (kind of head, if any) head : and the said subscribing owners having consented and agreed to the above description, the said ship or vesssel called the (name) has been duly registered at the port of (name of port), certified under our hands at the Custom House, in the said port of (name of port), this (date) day of (name of month) in the year (words at length).

(Signed) ——— Collector or Registrar of Shipping.

And on the back of such certificate of registry, there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate, in the form and manner following :

Names of several owners within mentioned.	*Number of shares held by each owner.*
Name	..... Thirty two.
Name	.... Sixteen.
Name	. ... Eighth.
	&c. &c."

(Signed) ——— Collector.

II. And it is hereby enacted, that the ports at which registration shall be made, shall be the ports of Calcutta, Madras, Bombay, Singapore, and such other places subordinate to the local Governments of India, as such Governments respectively may, from time to time, declare to be registering ports under this Act. Provided, that ships or vessels built at any place other than any of such ports, shall be allowed to make their first voyage to any of such ports, being the ports at which it is intended they shall be registered under a certificate to be granted by the principal British Officer at the place where the ship is built, or if there be no British Officer in authority there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively be registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered. Provided that such ships or vessels so proceeding on their first voyage as aforesaid shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and if they be not registered within a reasonable time after their arrival at the port of registry the owner or owners, or master or other person having or taking the command or charge of such ship or vessel shall be liable on information in any Court of Her Majesty or the East India Company by the Advocates General of the respective Presidencies to a penalty not exceeding 5,000 rupees. Ports of Registry.

III.

Registrars.

III. And it is hereby enacted, that the persons authorized to make such registry, and to grant such certificates as aforesaid, shall be the persons now authorized to make registry of ships or vessels under the Statute 3 and 4 W. 4. Ch. 55, and such other or different persons as the local Governments may from time to time appoint for the ports under their respective Presidencies.

Book of Registry.

IV. And it is hereby enacted, that at every port where registry shall be made in pursuance of this Act a book shall be kept by the Registering Officer in which all the particulars contained in the form of the certificate of the registry hereinbefore directed to be used shall be duly entered; and every registry shall be numbered in progression beginning such progressive numeration at the commencement of each and every year. And such Registering Officer shall forthwith, or within one month at the furthest, send to the Government of the Presidency to which he is subordinate a true and exact copy, together with the number of every certificate which shall be by him so granted.

Declaration.

V. And it is hereby enacted, that no registry shall henceforth be made or certificate be granted, until the following declaration be made or subscribed before the Registering Officer, by the owner or major part of the owners of the ship or vessel required to be registered.

I, A. B., of (place of residence and occupation) do truly declare that the ship or vessel (name) of (port or place) whereof (master's name) is at present master, being (kind of built, burthen,

et

et cetera, as described in the certificate of the Surveying Officer) was (when and where) built, and that I the said (A. B.) and the other owners (names and occupations if any and where they respectively reside) am (or are) sole owner (or owners of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share, or property therein or thereto; and that I the said (A. B.) and the said other owners (if any) am (or are) truly and bona fide a subject (or subjects) of Her Majesty for whom the Governor General of India in Council has power to legislate, and that no person not being subject as aforesaid, directly or indirectly, hath any share or part interest in the said ship or vessel. Provided that if the Registering Officer shall see occasion to doubt the truth of any of the facts contained in the above declaration he shall not deem such declaration to be conclusive, but may refuse the registry or certificate, and his discretion exercised in this behalf shall be subject only to an appeal to the local Government to which he is subordinate.

VI. And it is hereby enacted, that in case the required number of joint owners of any ship or vessel shall not personally attend to make and subscribe the declaration hereinbefore directed to be made and subscribed, then and in such case such owner or owners as shall personally attend and make and subscribe the declarations aforesaid, shall further declare that the part owner or part owners of such ship or vessel then absent, is or are not resident within twenty miles of such port or place, and hath or have not to the best of his or their knowledge or belief, wilfully absented himself or themselves in order to avoid

the

the making the declaration hereinbefore directed to be made and subscribed, or is or are prevented by illness from attending to make and subscribe the said declaration.

Measurement to be made.

VII. And in order to enable the Registering Officer to grant a certificate truly and accurately describing every ship or vessel to be registered in pursuance of this Act, and also to enable all other Officers of Customs on due examination, to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted, it is hereby enacted, that previous to the registering or granting of any certificate of registry as aforesaid some one or more person or persons appointed by the local Governments respectively, taking to his or their assistance if he or they shall judge it necessary, one or more person or persons skilled in the building and admeasurement of ships, shall go on board of every such ship or vessel that is to be registered, and shall strictly and accurately examine and admeasure every such ship or vessel as to all and every particular contained in the form of the certificate hereinbefore directed in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence by the said master, and shall deliver a true and just account in writing of all such particulars of the built, description, and admeasurement of every such ship or vessel as are specified in the form of the certificate above recited to the Officer authorized to make such registry and grant such certificate of registry as aforesaid; and the said master or other person attending on the part of the owner or owners is hereby required to sign his name also to the certificate

certificate of such Surveying or Examining Officer, in testimony of the truth thereof, provided such master or other person shall consent and agree to the several particulars set forth and described therein.

Rules of measurement.

VIII. And it is hereby enacted, that from and after the commencement of this Act the tonnage of every ship or vessel required by law to be registered, shall, previous to her being registered, be measured and ascertained while her hold is clear, and according to the following rule ; (that is to say) divide the length of the upper deck between the afterpart of the stem and the forepart of the stern post into six equal parts. Depths : at the foremost, the middle, and the aftermost of those points of division, measure in feet and decimal parts of a foot the depths from the underside of the upper deck to the ceiling at the limber strake. In the case of a break in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. Breadths : divide each of those three depths into five equal parts and measure the inside breadths at the following points, videlicet, at one-fifth and at four-fifths from the upper deck of the foremost and aftermost depths, and at two-fifths and four-fifths from the upper deck of the midship depth. Length : at half the midship depth measure the length of the vessel from the afterpart of the stem to the forepart of the sternpost, then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths ; add together the upper and lower breadths at the foremost division, three times the upper breadth and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division, for the

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sum of the breadths; then multiply the sum of the depths by the sum of the breadths, and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons for register. If the vessel have a poop or half deck, or a break in the upper deck, measure the inside mean length, breadth and height of such part thereof as may be included within the bulk head; multiply these three measurements together and dividing theproduct by 92.4 the quotient will be the number of tons to be added to the result as above found. In order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake.

Measurement of Steam-vessels.

IX. And it is hereby provided, that in each of the several rules hereinbefore prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder shall be deemed the true register tonnage of the said ship or vessel. The tonnage due to the cubical contents of the engine room shall be determined in the following manner; that is to say, measure the inside length of the engine room in feet and decimal parts of a foot from the foremost to the aftermost bulk-head, then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two-fifths of the depth from the deck taken as aforesaid, and divide the last product by 92.4, and the quotient shall be deemed the tonnage due to the cubical contents of the engine room.

X.

Alterations in Steam-vessels requiring new Registry.

X. And it is hereby provided, that the tonnage due to the cubical contents of the engine room and also the length of the engine room shall be set forth in the certificate of registry as part of the description of the ship or vessel, and that any alteration of such tonage due to the cubical contents of the engine room, or of such length of the engine room, after registry, shall be deemed to be an alteration requiring registry de novo within the meaning of the said Act for the registering of ships or vessels.

Measurement of laden Vessels.

XI. And it is hereby enacted, that for the purpose of ascertaining the tonnage of all such ships whether belonging to the United Kingdom or otherwise, as there shall be occasion to measure while their cargoes are on board, the following rule shall be observed and is hereby established; (that is to say,) measure, first, the length on the upper deck between the after-part of the steam and the forepart of the stern-post; secondly, the inside breadth on the underside of the upper deck at the middle point of the length; and, thirdly, the depth from the underside of the upper deck down the pump-well to the skin, multiply these three dimensions together, and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ships.

Registered tonnage to be marked.

XII. And it is hereby enacted, that the true amount of the register tonnage of every merchant ship or vessel belonging to the United Kingdom, to be ascertained according to the rule by this Act established in respect of such ships, shall be deeply carved or cut in figures of at least three inches in length

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on the main beam of every such ship or vessel, prior to her being registered.

Country Craft not exceeding 200 tons.

XIII. And it is hereby provided that Country Craft employed in coasting voyages not exceeding the burden of 200 tons, may be registered and the tonnage marked according to rules to be prescribed from time to time by the respective local Governments.

Registered tonnage to be repeated in every subsequent register.

XIV. And it is hereby enacted, that whenever the tonnage of any ship or vessel shall have been ascertained according to the rules herein prescribed such account of tonnage shall ever after be deemed the tonnage of such ship or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form of burthen of such ship or vessel, or it shall be discovered that the tonnage of such ship or vessel had been erroneously taken and computed.

Fraudulent use of Certificate.

XV. And it is hereby enacted, that if such certificate as aforesaid shall be sold, lent, or otherwise disposed of to any person or persons whatever than those for whose use it is granted, or shall be made use of for the service of any other ship or vessel than the ship or vessel for which it is granted, such certificate shall thenceforth be utterly void, and the master or any owner of the ship or vessel who shall be proved to have sold, lent, or disposed of such certificate or made use of the same as aforesaid, or shall have concurred in or been privy to the committing any such offence, shall be liable upon conviction by

by information as aforesaid to a penalty not exceeding 10,000 rupees. And in case such ship or vessel shall be lost or taken by the enemy, burnt, or broken up, or otherwise prevented from returning to the port at which she is registered, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt and sold by due process of law, or shall have been sold to the Crown or the East India Company, or shall under any circumstances have been registered de novo, the certificate, if preserved, shall be delivered up, within one month after the arrival of the master in any port or place in the territories of the East India Company to the Registering Officer at such port, in default whereof the master or any of the owners shall be liable on conviction by information as aforesaid in a penalty not exceeding 5,000 rupees. And if any person not being such subject as aforesaid shall purchase or otherwise become entitled to the whole or to any part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of the territories of the East India Company, then and in such case the certificate of registry shall within seven days after such purchase or transfer of property in such ship or vessel, be delivered up to the Registering Officer at such port, and if such ship or vessel shall be in any place not within the territories of the East India Company when such purchase or transfer of property shall take place, then the certificate shall be delivered up within fourteen days after the arrival of such ship or vessel, or of the master thereof in any port of the territories of the East India Company to the Registering Officer

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at such port in default wherof the master or any of the owners shall be liable on conviction before any Justice of the Peace in a penalty not exceeding 5,000 rupees recoverable in manner provided by Act No. II of 1839.

Change of Master.

XVI. And it is hereby enacted, that when and so often as the master of any ship or vessel registered in manner herein before directed shall be changed, the master or owner of such ship or vessel shall deliver to the person or persons hereinbefore authorized to make such registry and grant such certificates of registry at the report where such change shall take place, if it be a port within the territories of the East India Company, the certificate of registry belonging to such ship or vessel, who shall thereupon indorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this Act, who shall likewise make a memorandum of the same in the book of registers which is hereby directed and required to be kept, and shall forthwith give notice thereof in like manner as of the original entry. But if the change do not take place in any port within the territories of the East India Company, then such delivery, memorundum and indorsement shall be made and notice given at the first port within the territories of the East India Company at which the new master shall arrive after such change. In default of which delivery of the certificate such new master or any of the owners shall be liable on conviction before a Justice of the Peace, to a penalty not exceeing 5,000 rupees recoverable as aforesaid

XVII.

Name of Ship.

XVII. And it is hereby enacted, that it shall not be lawful for any owner or owners of any ship or vessel, to give any name to such ship or vessel other than that by which she was first registered in pursuance of this Act, and that the owner or owners of all and every ship or vessel which shall be so registered, shall, before such ship or vessel after such registry, shall begin to take in any cargo, paint or cause to be painted, in white or yellow letters of a length of not less than four inches, upon a black ground on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this Act, and the port to which she belongs in a distinct and legible manner, and shall so keep and preserve the same, and that if such owner or owners, or master or other person having or taking the charge or command of such ship or vessel, shall permit such ship or vessel to begin to take in cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate, or in any wise hide or conceal, or cause or procure or permit the same to be done, or shall in any written or printed paper, or other dacument describe such ship or vessel by any name other than that by which she was first registered pursuant to this Act, or shall verbally describe, or cause or procure or permit such ship or vessel to be described by any other name to any Officer or Officers of Revenue in the due execution of his or their duty, then and in every such case the certificate of registry shall thenceforth become utterly void, and such owner or owners, or master or other person having or taking the charge or command of such ship or vessel shall be liable on information as aforesaid to a penalty not exceeding 10,000 rupees.

XVIII.

Certificate of building

XVIII. And it is hereby enacted, that all and every person and persons who shall apply for a certificate of the registry of any ship or vessel shall, and they are hereby required to produce to the person or persons authorized to grant such certificate, a true and full particular under the hand of the builder of such ship or vessel, or in case the want of such certificate can be satisfactorily accounted for, then to produce other sufficient evidence of the proper denomination, and of the time when and the place where such ship or vessel was built, and also an exact account of the tonnage of such ship or vessel, and shall also make and subscribe a declaration before the person or persons hereinbefore authorized to grant such certificate that the ship or vessel for which such certificate is required is the same with that which is so described by the builder as aforesaid.

Certificate lost or mislaid.

XIX. And it is hereby enacted, that if the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the Registering Officer of the port at which the ship is registered, such Officer shall and may, where the certificate shall have been lost or mislaid, permit such ship or vessel to be registered de novo, and a certificate thereof to be granted. Provided always that if such ship or vessel be absent and far distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such Registering Officer shall and may grant a license

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for the present use of such ship or vessel, which license shall for the time and to the extent specified therein, and no longer, be of the same force and virtue as a certificate of registry granted under this Act. Provided always that if the certificate of registry shall at any time afterwards be found, the same shall be forthwith delivered to the proper Officers of Customs to be cancelled, and that no illegal use be made of the same, in default whereof the original certificate and the renewed certificate and license shall thenceforth become utterly void, and any person wilfully detaining the certificate so required to be cancelled, or making any illegal use thereof, shall be liable on conviction before any Justice in a penalty not exceeding 5000 rupees recoverable as aforesaid.

Detention of Certificate.

XX. And whereas it is not proper that any person under any pretence whatever should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted, it is therefore hereby enacted, that in case any person who shall have received or obtained by any means or for any purpose whatever the certificate of the registry of any such ship or vessel (whether such person shall claim to be the master or to be the owner or one of the owners of such ship or vessel, or not,) shall wilfully detain and refuse to deliver up the same to the proper Officers of Customs, for the purposes of such ship or vessel, as occasion shall require, or to the person or persons having the actual command, possession, and management of such ship or vessel as the ostensible and reputed master, or as the ostensible and reputed owner or

owners

owners thereof, it may and shall be lawful to and for any such last mentioned person to make complaint on oath of such detainer and resual to any Jnstice of the Peace residing near to the place where such detainer and refusal shall be, and on such complaint the said Justice shall and is hereby required by warrant under his hand and seal, to cause the person so complained against to be brought before him to be examined touching such detainer and refusal, and if it shall appear to the said Justice on examination of such person or otherwise the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such person shall be subject on conviction before such Justice to a penalty not exceeding 1,000 rupees, recoverable as aforesaid, and the said Justice shall, and he is hereby required to certify the aforesaid detainer, refusal, and conviction to the person or persons who granted such certificate of registry for such ship or vessel who shall on the terms and conditions of law being complied with make registry of such ship or vessel de novo, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered de novo ; and if the person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded so that the said warrant of the Justice cannot be executed upon him, and proof there of shall be made to the satisfaction of the Registering Officer of the port at which the ship or vessel was registered, it shall be lawful for the said Officer to permit such ship or vessel to be registered de novo, or otherwise, in his discretion, to grant a license for the present use of such ship or vessel in like manner as is hereinbefore

provided

provided in the case wherein the certificate of registry is lost or mislaid.

Registration de novo.

XXI. And it is hereby enacted, that if any ship or vessel after she shall have been registered pursuant to the directions of this Act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, or if any alteration shall take place in the ownership of any ship or vessel, or of any share or shares thereof, in such cases such ship or vessel shall be registered de novo in manner hereinbefore required as soon as she returns to the port to which she belongs, or to any other port within the territories of the East India Company, on failure whereof such ship or vessel shall be deemed to be a ship or vessel not duly registered, and any person making use of a certificate for the purposes of any ship or vessel which has been granted in respect of the same, after the same ought to have been registered de novo, shall be liable on conviction before any Justice to a penalty not exceeding 5,000 rupees recoverable as aforesaid.

Testimony of Registering Officers.

XXII. And whereas great inconvenience may arise from the Registering Officers being served with subpœnas requiring them to bring with them and produce, on trials in Courts of Law relative to the ownership of vessels, or otherwise the declarations required to be taken by the owners thereof prior to the registering thereof, and the books of registry, or copies or extracts therefrom. And whereas it would tend much to the dispatch of business if the attendance of such Registering Officers with the same upon such trials were dispensed with, it is therefore

therefore hereby enacted, that the Registering Officer at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or persons whomsoever, produce and exhibit for his, her or their inspection and examination any declaration made by any such owner or owners, and also any register or entry in any book or books of registry required, and shall upon every reasonable request by any person or persons whomsoever, permit him, her, or them to take a copy or copies, or an extract or extracts thereof respectively, and that the copy and copies of any such oath or declaration, registry or entry, shall upon being proved to be true copy or copies thereof respectively, be allowed and received as evidence upon every trial at law, without the production of the original or originals, and without the testimony or attendance of any Registering Officer, or other person or persons acting for them respectively, in all cases, as fully and to all intents and purposes as such original or originals if produced by any Registering Officer, or other person or persons acting for them, could or might legally be admitted or received in evidence.

False declaration. Falsifying documents

XXIII. And it is hereby enacted, that if any person or persons shall falsely make declaration to any of the matters hereinbefore required to be verified by declaration, or if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing required or directed to be obtained, granted, or produced by this Act, or shall knowingly or wilfully make use of any certificate or other instrumemt so counterfeited, erased, altered, falsified, or shall wilfully grant such certificate or other instrument in writing, knowing it to be false, such person

or

or persons shall for every such offence be liable on conviction upon information as aforesaid to a penalty not exceeding 10,000 rupees. And if any such offence be committed by the owner of any ship or vessel, the certificate of such ship or vessel shall thenceforth be wholly void.

Ships of Native States.

XXIV. And it is hereby enacted, that when any ship or vessel duly registered under this Act, or sailing under the British Navigation Law, shall come to be owned by a Native Prince or State, or by any subject of such Native Prince or State as aforesaid, it shall be lawful for the Governor of Fort William in Bengal, or for the Governor in Council of any Presidency to continue to such ship or vessel the privileges and advantages of a British ship for the purposes aforesaid by a pass to be issued under the Company's Seal and subscribed by a Secretary to Government, stating the voyage or voyages for which the same is to have effect, and the period for which it is to last; and it shall be lawful for the Governor of Fort William in Bengal, or the Governor in Council of any Presidency, to issue a similar pass conferring the privileges and advantages of a British ship for the purposes aforesaid under this Act to any ship or vessel built within the dominions of such Native Prince or State, and owned by such Prince or State, or by any of their subjects, provided always, that the ships belonging to Native Princes or States, or their subjects, in respect of which passes may be granted under this Act shall, during the voyage or voyages, or the period for which any such pass shall be granted be commanded by a subject of Her Majesty for whom the Governor General in Council has power to legislate.

XXV.

Fees.

XXV. And it is hereby enacted, that the fees demandable in respect of the granting any certificate or pass under this Act shall be fixed from time to time according to the directions of the Governor General in Council, but so that the same shall not exceed the amount of fees now payable for registering or granting passes to ships or vessels at the different Presidencies.

Ports to which ships belong.

XXVI. And it is hereby declared and enacted, that all ships or vessels registered under this Act, shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered or in respect of which passes may have been granted which are unexpired at the time of passing this Act, shall for the purpose of being deemed British ships be deemed to belong to the ports at which they may have been registered or when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels built and owned as required by the Statute 3 and 4 Vict. Ch. 56, shall continue subject to all the rules in force at the respective Presidencies before the passing of this Act, touching the resgistering, measurement, granting passes or other requisitions in respect of the same, and shall not be subject to the provisions of this Act, or any provisions of the Statute law, a compliance with which may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade.

ACT No. X. OF 1841.

PROCLAMATION.

The Governor General of India in Council hereby declares that all ships and vessels built or to be built within the limits of the Charter of the East India Company (as those limits are defined by the Statute 3d and 4th of Queen Victoria Cap. 56, entitled "An Act further to regulate the trade of ships built and trading within the limits of the East India Company's Charter,") being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate and belonging under the provisions of the Act passed by the Governor General in Council No. X. of 1841, to any ports in the territories under the Government of the East India Company shall be deemed to be British ships for all purposes of trade within the said limits, including the Cape of Good Hope and the territories and dependencies thereof.

Calcutta :—1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XI. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 5th of July, 1841.

An Act for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the Service of the East India Company.

I. IT is hereby enacted, that all Regulations and parts of Regulations concerning Military Courts of Requests are repealed; provided always that nothing in this Act contained shall be held to alter or affect the jurisdiction of a single Officer duly authorized and appointed under the Rules in force in the Madras and Bombay Presidencies for the trial of small suits in Military Bazars at Cantonments and Stations occupied by the troops of those Presidencies respectively, or the trial by Punchayet of suits against Military persons according to the Rules in force under the Madras Presidency.

II. And it is hereby enacted, subject to the aforesaid proviso, that within the territories of the East India Company actions of debt and other personal actions against Native Officers, Soldiers and other persons amenable

amenable to the Articles of War for the Native Forces in the Military Service of the East India Company, or residing within any Station or Cantonment, and carrying on any trade or business in a Military Bazar, shall be cognizable before a Military Court and not elsewhere, provided the value in question shall not exceed 200 Rupees, and the defendant was a person of the description above mentioned, when the cause of action arose, and when the suit was instituted. Provided that no suit shall be brought before any Military Court under this Act to determine any dispute of caste or concerning any right to real property.

III. And it is hereby enacted, that the Commanding Officer of any Station or Cantonment, or Officer Commanding any portion of Troops in the field, is authorized to convene such Military Courts. And such Courts shall be composed, according to the orders of the Commander in Chief for the time being of the Presidency within which the Station or Cantonment is situate, or, in the absence of such orders, according to the discretion of the Convening Officer, either of not less than three European Commissioned Officers, or of not less than three Native Commissioned Officers, and, in the latter case, with an European officer of not less than five years' standing, to superintend and record the proceedings. Provided that if there be not a sufficient number of Officers to constitute a Court at the Station or Cantonment where any cause of action may arise, or where the defendant may be residing, the suit shall be determined at the nearest Station or Cantonment where a Military Court can be duly constituted as aforesaid.

IV. And it is hereby enacted, that such Military Courts shall be convened monthly, and shall be holden on some convenient day before the issue of the pay for each month.

V.

V. And it is hereby enacted, that the forms of proceeding in every such Court shall be conformable to the usages observed on trials before Courts Martial held for the Native Troops in the service of the East India Company as far as the same are applicable. And any such Court shall have the like power of summoning witnesses as is possessed by Courts Martial. Provided always, that every such Court shall have the power of examining the parties to any suit and of requiring or dispensing with their attendance at its discretion. And every such Court shall have the like power of taking the examinations of absent parties and witnesses as is possessed by the Civil Courts of the East India Company, under Act No. VII. of 1841, provided that the depositions taken under a Commission issued by any Military Court of Requests shall be receivable in evidence before any such Court subsequently held; Provided also that Commissions may be issued by Military Courts of Requests under this Act pursuant to the provisions of No. VII. of 1841, notwithstanding the Courts to which the Commissions may be directed are not situate beyond the jurisdiction of such Military Courts.

VI. And it is hereby enacted, that witnesses omitting to attend, refusing to give evidence, or committing perjury, and persons suborning witnesses to commit perjury, shall be tried and punished, if amenable to Articles of War, by a Court Martial, subject to all the Rules contained in such Articles of War for the punishment of such offences in regard to trials for Military offences; and if not amenable to Articles of War, they may be tried and punished in the nearest of the Courts of the East India Company for the administration of Criminal Justice (whether such Court have ordinarily jurisdiction over such person in Criminal matters or not) in like manner as if such offences had been committed in regard to any trial before such nearest Court.

VII.

VII. And it is hereby enacted, that any person, Civil or Military, European or Native, using menacing words, signs, or gestures, or otherwise interrupting (whether being personally present or not,) the proceedings of any Military Court of Requests shall be punishable, if amenable to Articles of War by a Court Martial, or if not amenable to Articles of War, in the nearest of the Courts of the East India Company for the administration of Criminal justice (whether such Court have ordinarily jurisdiction over such person in Criminal matters or not,) in like manner as if the offence had been committed in regard to any proceeding of the Court to which it is so referred.

VIII. And it is hereby enacted, that a record shall be kept of proceedings in every case tried before any Military Court of Requests. And such record shall contain the substance of the evidence given and the nature of such evidence as may have been rejected on the ground of its not being legally admissible, or relevant, or on other grounds, and the same shall be signed by the Members of the said Court. And such record or a copy thereof shall, with as little delay as is practicable, after the conclusion of the proceedings, be transmitted by the European President, or Superintending Officer of every such Court to the Officer Commanding the Station or Cantonment.

IX. And it is hereby enacted, that where a demand shall exceed the amount of 200 Rupees, or where several separate demands shall exceed such amount, no more shall be recoverable from any one defendant by the same plaintiff or plaintiffs than the sum of 200 Rupees only—and the judgment in respect of any demand in a Court of Requests shall be a bar to the recovery of the same demand or of any other or further demand for the same cause of action in any other Court whatever, provided that the liability

liability accrued before the time of instituting the suit in the Military Court—and it shall be competent for every such Military Court to investigate any counterclaim alleged by any defendant. And it shall be competent for every such Military Court to allow the interest for money agreed on between the parties, provided the same does not exceed the usage of the country in ordinary money transactions. And every contract made after the passing of this Act upon which a demand for debt exceeding 20 Rupees is founded, not being money due for goods bought and delivered, shall be in writing and expressed in the language of the defendant and signed by him, or on his behalf by some other person than the plaintiff. Provided that it shall not be competent to any Court of Requests to admit any suit for a debt which has accrued upwards of six years, unless a direct promise to pay made within six years of the commencement of the suit be proved.

X. And it is hereby enacted, that on failure of either of the parties to a suit to attend either personally or by representative, or to produce his witnesses according as he shall be required by any Military Court of Requests, such Court on being satisfied that the party has been duly apprized of what is required of him, may proceed to the termination of the suit in his absence. And if the decree in any such case shall be against the plaintiff, it shall not be competent for him to commence a new suit for the same cause of action.

XI. And it is hereby enacted, that it shall be lawful for the Commanding Officer to whom the proceedings have been transmitted as aforesaid to return the same for revision either by the same or another Military Court of Requests. And in every such case the second decree shall be final, unless for error in points of law, when the same shall be transmitted to the Commander

Commander in Chief, who shall have power to annul the proceedings without prejudice to any future suit. Provided always that in the case of any new trial the Court may receive evidence which was not adduced at the first trial.

XII. And it is hereby enacted, that every plaintiff shall prefer his claim in writing and shall deliver the same to the Station Staff-Officer. The claims shall be entered in a Schedule by the Station Staff-Officer, which Schedule is to be sent to Adjutants of Corps or Heads of Departments two days at least before the assembly of the Court, and the Adjutants or Heads of Departments shall be responsible that the defendants belonging to their respective Corps or Establishments have been duly summoned.

XIII. And it is hereby enacted, that every decree of any Military Court of Requests shall be published in the Station Orders before the same is executed.

XIV. And it is hereby enacted, that the execution of decrees of Military Courts of Requests may be either general or special, according to the sentence of the Court. Provided always that the Commanding Officer may, notwithstanding the direction of the Court, order that the execution shall be general or special at his discretion.

XV. And it is hereby enacted, that in cases in which the execution is to be general, the debt if not paid forthwith, shall, under the authority of the Commanding Officer in writing to be signed by him, be levied by seizure and public sale of such of the Debtor's Goods (under which term are included houses or other erection within the limits of Stations and Cantonments) as may be found within the limits of the Station or Cantonment,

Cantonment, or elsewhere; and if sufficient Goods are not to be found, the debtor, if not a Soldier, shall be arrested and imprisoned in any Civil Gaol near to the Station or Cantonment, (for which purpose the provisions of Act No. II of 1840 shall be applicable) or in any other convenient place of confinement situate within the limits of the Station or Cantonment, for the space of two months, unless the debt be sooner paid, and his Goods, if found within the limits of the Station or Cantonments or elsewhere at any subsequent time, shall be liable to be seized and sold in satisfaction of the debt. And if the debtor be a Soldier and the debt be not liquidated by sale of his Effects, Accoutrements and Necessaries excepted, an order may be issued for payment of the residue by monthly deduction from the pay issued to the debtor under the Rules which follow.

XVI. And it is hereby enacted, that where the execution is to be special, the debt shall be satisfied out of the pay and allowances of the debtor and not otherwise. And a certificate of the decree and direction or order thereon certified under the hand of the Commanding Officer and signed by him, shall be a sufficient authority for making such stoppages. Provided always that no more than one-half of the pay and allowances of any Commissioned Officer, or than one-fourth of the pay and allowances of any non-Commissioned Officer or Soldier shall be stopped in any one month.

XVII. And it is hereby enacted, that in places beyond the Frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before such Military Courts as aforesaid against persons so amenable as aforesaid for any amount of demand: Provided that such Military Courts beyond the Frontier shall be composed of European Officers—and provided, that if the amount of claim shall exceed 200 Rupees

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an appeal shall lie to the Court of Sudder Adawlut of the nearest Presidency according to the rules in force with regard to appeals from subordinate Civil Courts.

XVIII. And it is hereby enacted, that this Act shall not affect the proceedings upon any suit heretofore commenced or which shall be commenced before the Tenth day of August next.

Calcutta, 1841:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XII. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 19th July, 1841.

An Act for amending the Bengal Code in regard to Sales of Land for Arrears of Revenue.

I. WHEREAS it is deemed expedient with a view to the benefit of the Agricultural Community, to regulate the number of periodical sales of Estates for arrears of Revenue; to discontinue the levy of interest and penalty upon such arrears; to provide for the sale at fixed and known periods of Mehals, the whole of the Land Revenue due from which may not have been discharged on or by appointed days; and otherwise to amend the laws for the realization of the Land Revenue;— Preamble.

It is hereby enacted, that Sec. 2, Reg. XIV. 1793; Sec. 2, Reg. III. 1794, Reg. XI. 1822, except Sections 36 and 38, and Reg. VII. 1830 are rescinded, except in so far as they rescind other Regulations or parts of Regulations. Regulations rescinded.

II.

Interest and Penalty abolished.

II. And it is hereby enacted, that there shall be no demand of interest or penalty upon any arrear of Land Revenue which shall fall due after the date specified in Section XXXV. of this Act.

Days fixed for sale,

III. And it is hereby enacted, that upon the promulgation of this Act the Sudder Board of Revenue at Calcutta shall determine with regard to each permanently settled District or Zillah under their jurisdiction, the fixed dates in each year on which shall be commenced the process for realizing by sale of Mehals the arrears of Land Revenue due thereupon. And the said Board shall give notice of the dates so fixed in the Calcutta Gazette; and shall direct corresponding publication to be made, as far as regards each District, in the language of that District, in the Office of the Collector, or other Officer duly authorized to hold sales under this Act, and in the Courts of the Judge, Magistrate, Principal Sudder Ameens, Sudder Ameens, and Sudder Moonsiffs; and the days so fixed shall not be changed until the same be changed by the said Board by advertisements and notifications in the manner above described; such advertisements and notifications to be issued, on every occasion after the first above provided for, at least three months before the close of the official year preceding that in which the new date or dates are to take effect. Provided always, that another notice shall also be given for a period of not less than 15 clear days previous to each fixed date of sale by advertisement to be stuck up in each of the forenamed Offices and Courts, and the Collector shall be bound to furnish during this interval to all enquirers full particulars as to what estates are in balance, and the amount due on each.

IV.

IV. And it is hereby enacted, that in Districts not permanently settled, and in the Province of Benares, no sale shall take place for arrears of Land Revenue or other demand of Government without the special sanction of the Sudder Board of Revenue previously obtained in each several case of sale.

Exception in unsettled Provinces and Benares.

V. And it is hereby enacted, that if the whole or a portion of a kist or instalment of any month of the year, according to which the settlement and kistbundee of any Mehal have been regulated be unpaid on the first of the following month of such year, the sum so remaining unpaid shall be considered an arrear of Revenue.

Defination of an arrear.

VI. And it is hereby enacted, that except as hereinafter excepted, all Estates from which at sunset of the day preceding that fixed for a sale an arrear of Revenue may be due, shall on the said fixed day, or on the day or days following as hereinafter provided, be put up to public auction by and in the presence of the Collector or other Officer authorized by Government to exercise the powers of Collector in that behalf, and shall be sold to the highest bidder; and no payment or tender of payment made subsequent to sunset of the day preceding that fixed for a sale shall bar or interfere with the sale either at or after its conclusion.

All Estates in arrear to be sold.

VII. And it is hereby enacted, that no claim to abatement or remission of Revenue unless the same shall have been allowed by the authority of Government, nor any private demand or cause of action whatever held or supposed to be held by

Claims to abatement and set off.

by any defaulter against Government shall bar a sale, or render a sale under this Act void or voidable ; nor shall the plea that money belonging to the defaulter, and sufficient to pay the balance or part of it, was in the Collector's hands, bar a sale or render a sale under this Act void or voidable, unless such money stand in the defaulter's name alone and without dispute, and unless after application in due time made by the defaulter, the Collector shall have neglected, or refused on insufficient grounds, to transfer it to the credit of the estate.

Exceptions.

VIII. Provided always, and it is hereby enacted, that no estate shall be sold for the recovery of arrears or demands of the description mentioned below, otherwise than after a notification in the language of the District, specifying the nature and amount of the arrear or demand, shall have been affixed, for a period of not less than fifteen clear days preceding the day of sale, in the Office of the Collector, or other Officer as aforesaid, by whom the sale is intended to be made, in the Court of the Judge within whose jurisdiction the land advertised lies, in the Courts of all the Principal Sudder Ameens, Sudder Ameens and Moonsiffs of the District, and at the Police Thannah of the Division in which the estate to which the notice relates, or part of it is situated, the same to be certified by the receipt of the Officer at whose Office such publication may have been made; and also at the Cutcherry of the Malgoozar of the estate, or at some conspicuous place upon the estate, the same to be certified by the peon or other person employed for the purpose. And it shall be declared in the said notification that no payment or tender of payment of the arrear or demand due, which may be made

made after sunset of the day preceding the fixed day of sale, will bar or interfere with the sale either at or after the transaction.

First.—Arrears due from or to be recovered by the sale of estates not permanently settled.

Secondly.—Arrears other than those of the current or of the preceding year.

Thirdly.—Arrears due on account of estates other than that to be sold.

Fourthly.—Arrears of estates under attachment by order of the Judicial Authorities.

Fifthly.—Arrears due on account of Tuccavy, Poolbundee, or other demands not being Land Revenue, but recoverable by the same process as arrears of Land Revenue.

Payments by non-proprietors.

IX. And it is hereby enacted, that Collectors shall, at any time before sunset of the day preceding the fixed day of sale receive as a deposit from any party not being a proprietor of the estate in arrear, the amount of the arrear of Revenue due from it, to be carried to the credit of the said estate at sunset as aforesaid, unless before that time the arrear shall have been liquidated by a proprietor of the estate. And in case the party so depositing, whose money shall have been credited to the estate in the manner aforesaid, shall be a plaintiff in a suit pending

pending before a Court of Justice for the possession of the same or any part thereof, it shall be competent to the Judge of the Zillah in which such estate is situated, to order the said party to be put into temporary possession of the said estate, subject to the rules in force for taking security in the cases of appellants and defendants. And if the party depositing whose money shall have been credited as aforesaid shall prove before a competent Civil Court that the deposit was made in order to protect an interest of the said party, which would have been endangered, or damaged by the sale of the estate, he shall be entitled to recover the amount of the deposit with interest, from the proprietors of the said estate.

X. And it is hereby enacted, that no estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards, and no estate, the sole property of a minor or minors, and descended to him or them by the regular course of inheritance duly notified to the Collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation VI. 1832, shall be sold for arrears of Revenue accruing subsequently to his or their succession to the same, until the minor or minors, or one of them, shall have attained the full age of 18 years. And no estate held under attachment by the Revenue Authorities, otherwise than by order of a Judicial Authority, shall be liable to sale for arrears accruing whilst it was so held under attachment. And no estate held under attachment by a Revenue Officer, in pursuance of an order

Ward's Estates and Minor's.

Attached by a Revenue Officer.

Attached by a Court

of

of a Judicial Authority, shall be liable to sale for the recovery of arrears of Revenue accruing during the period of such attachment, until after the end of the year in which such arrears accrued.

Exemption from sale.

XI. And it is hereby enacted, that it shall be competent to the Collector at any time before the sale of an estate shall have commenced to exempt such estate from sale; and in like manner it shall be competent to the Commissioner of Revenue at any time before the sale of an estate shall have commenced, to exempt such estate from sale, by a special order to the Collector to that effect in each case; and no sale of an estate shall be legal if held after the receipt of an order of exemption in respect to such estate. Provided, however, and it is hereby enacted, that the Collector or Commissioner shall duly record in a proceeding the reason for granting such exemption; and provided also, that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector of the order for exemption it from sale.

Proviso.

XII. And it is hereby enacted, that sales shall ordinarily be made by the Collector or other Officer duly authorized by Government in that behalf in the Land Revenue Cutcherry at the Sudder Station of the District, provided, however, that it shall be competent to the Sudder Board to prescribe a place for holding sales other than such Cutcherry whenever they shall consider it beneficial to the parties concerned.

XIII.

Adjournment.

XIII. And it is hereby enacted, that in case the Collector, or other Officer as aforesaid, shall be unable from sickness, from the occurrence of a holiday, or from any other cause to commence the sale on the day of sale fixed as aforesaid, or if, having commenced it, he be unable, from any cause, to complete it, he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue, and announcing the adjournment by a written proclamation stuck up in his Cutcherry ; and so on, from day to day, until he shall be able to commence upon, or to complete the sale, but with the exception of adjournments so made, recorded, and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Order of sale.

XIV. And it is hereby enacted, that on the day of sale fixed according to Section III. of this Act, sales shall proceed in regular order ; the estate to be sold bearing the lowest number on the Towjee or registers in use in the Collector's Office of the District being put up first, and so on, in regular sequence ; and it shall not be lawful for the Collector or other Officer as aforesaid to put up any estate out of its regular order by number.

Deposit on purchase.

XV. And it is hereby enacted, that the party who shall be declared the purchaser of an estate at any such public sale as aforesaid, shall be required to deposit immediately, or as soon after the conclusion of the sale as the Collector may think necessary, either in Cash, Bank of Bengal Notes or Post Bills, or Government Securities duly indorsed, 25 per cent. on the amount

amount of his bid and in default of such deposit, the estate shall, forthwith, be put up again and sold.

Balance of purchase money.

XVI. And it is hereby enacted, that the full amount of purchase money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate bought by him took place, reckoning that day as one of the thirty: or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth: and in default of payment within the prescribed period as aforesaid, then and afterwards as often as such default shall occur, the deposit shall be forfeited to Government, the estate shall be re-sold, and the defaulting purchaser shall forfeit all claim to the estate, or to any part of the sum for which it may subsequently be sold, and in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public Revenue, and it shall be so levied and credited to the defaulting proprietor of the estate sold, and if default of payment of purchase money shall have occurred more than once, the defaulting bidders shall be held jointly and severally responsible for such difference to the extent of the amount of their respective bids. Provided always, that every such re-sale shall be made after notification and in the forms prescribed by Section VIII. of this Act.

Rents stopped after notice for sale.

XVII. And it is hereby enacted, that whenever an estate shall have been sold as aforesaid, the Collector, or other Officer

as

as aforesaid, shall affix a proclamation in the language of the District in his Cutcherry; and as soon thereafter as may be in the Cutcherries of the Moonsiffs and of the Darogahs of Police, within whose jurisdiction or jurisdictions any part of such estate may be situated; and also at the Cutcherry of the Malgoozar of such estate; or on some conspicuous place on such estate, forbidding the ryots and under-tenants of such estate to pay rent falling due subsequent to the date therein specified and up to the date of the subsequent notice hereinafter prescribed by Section XXI. of this Act, on pain of not being entitled to credit in their accounts with the purchaser for any sums paid within the period aforesaid.

Appeal.

XVIII. And it is hereby enacted, that it shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act if preferred to him on or before the fifteenth day from the date of sale, reckoning as in Section XVI, or if preferred to the Collector for transmission to the Commissioner on or before the tenth day from the day of sale, and not otherwise: and the Commissioner shall be competent in every case of appeal so preferred, to annul any sale of an estate made under this Act, which shall appear to him not to have been conducted according to the provisions of this Act, awarding at the same time to the purchaser a payment from the proprietor of any moderate compensation, for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed interest, at the current rate of Government Securities, on the amount of deposit or balance of purchase money during the period of its being retained in the

Collector's

Collector's Office, and the order of the Commissioner shall, in such cases, be final.

Government may restore Estate.

XIX. And it is hereby enacted, that it shall be competent to the Commissioner of Revenue on the ground of hardship or injustice to suspend the passing of final orders in any case of appeal from a sale and to represent the case to the Sudber Board of Revenue, who, if they see cause, may recommend to the Local Government to annul the sale; and the Local Government in any such case, may annul the sale and cause the estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Sale when to be final.

XX. And it is hereby enacted, that all sales of which the purchase money has been paid up as prescribed in Section XVI. of this Act, and against which no appeal shall have been preferred, shall be final and conclusive at noon of the thirtieth day from the day of sale, reckoning the said day of sale, as the first of the said thirty days. And sales against which an appeal may have been preferred, and the appeal dismissed by the Commissioner, shall be final and conclusive from the date of such dismissal, if more than thirty days from the day of sale, or if less, then at noon of the thirtieth day as above provided.

Certificate of Title.

XXI. And it is hereby enacted, that immediately upon a sale becoming final and conclusive, the Collector or other Officer as aforesaid, shall give to the purchaser a Certificate of title in the following form:

I certify that A. B. has purchased at Public Auction under Act XII. of 1841, Mehal C, and that his purchase has taken effect on and since the — day of —— (being the date of sale.)

(Signed) D. E, *Collector.*

And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate sold being vested in the person or persons named from the date specified: and the Collector shall also notify such transfer by written proclamation in his own Cutcherry, and in those of the Moonsiff and Darogah of the jurisdictions within which any part of the estate sold shall be situated, and also at the Cutcherry of the Malgoozar of the estate or on some conspicuous place on the estate; and shall apply the purchase money first to the liquidation of all arrears due upon the day of sale, or upon the day of the original sale, if the sale finally consummated be a re-sale; and secondly, to the liquidation of all outstanding demands debited to the Mahal in the Public accounts of the district, holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate sold, to be paid to their receipt on demand in the manner following; to wit, in shares proportioned to their recorded interest in the estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. Provided that, if prior to payment of any surplus that may remain of the purchase money after liquidation of all Government arrears and dues to the proprietor of the estate sold, or his representative, the same may be claimed by creditors in satisfaction of debts due by him

him to them, or by any one creditor, such surplus shall not be payable to any such claimant, nor shall it be withheld from the proprietor by attachment, except under precept, and in satisfaction of decrees of Court for such debts. And if the balance of purchase money have in any such case been paid away in liquidation of the proprietor's just debts by order of any Court, and a decree shall afterwards pass for annulling the sale, the proprietor shall not be restored to possession until the amount so paid away be returned by him with interest.

Benamee purchase.

XXII. And it is hereby enacted, that any suit brought to oust the certified purchaser as aforesaid, on the ground that the purchase was made on behalf of another person, not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Notice of annulment.

XXIII. And it is hereby enacted, that the annulment of a sale by a Commissioner shall be publicly notified by the Collector or other Officer as aforesaid in the same manner as the becoming final and conclusive of sales is required to be notified by Section XXI. of this Act, and the amount of deposit and balance of purchase money shall be forthwith returned to the purchaser, with interest thereon, at the highest rate of the current public securities, from the dates on which they were respectively paid in, to the date on which the refund is actually made.

Purchase liable for Mesne Revenue.

XXIV. And it is hereby enacted, that the party certified as the proprietor of an estate by purchase at public sale for the

recovery

recovery of arrears of Revenue shall be answerable for all instalments of the Revenue of Government which may fall due subsequently to the day of sale: provided, however, that in the case of re-sales the purchaser shall be answerable for all instalments of Revenue which fell due subsequently to the day of the first sale.

Grounds and conditions of reversal by a Civil Court.

XXV. And it is hereby enacted, that no sale for arrears of Revenue or other demands realizable in the same manner, made after the taking effect of this Act, shall be set aside by a Court of Justice except upon the ground of its having been made contrary to the provisions of this Act: And except the contravention thereto shall have been declared and specified in an appeal made to the Commissioner, under Section XVIII. of this Act, and except the action in the Civil Court be instituted within one year, from the date of the sale becoming final and conclusive, as provided in Section XX. of this Act: And no person shall be entitled to contest the legality of a sale after having received any portion of the purchase money: Provided, however, and it is hereby enacted, that nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or circumstance connected with a sale under this Act, from his remedy in a personal action for damages against the individual by whose act or omission he considers himself to have been wronged.

Proviso.

Refund on reversal of sale.

XXVI. And it is hereby enacted, that in the event of a sale being reversed by a final decree of a Court of Justice, the purchase money shall be refunded to the purchaser by Government, together

together with interest at the highest rate of the current public securities.

Enhancement of rents in Bengal, &c.

XXVII. And it is hereby enacted, that the purchaser of an estate sold under this Act, for the recovery of arrears due on account of the same, in the permanently settled districts of Bengal, Behar, Orissa and Benares, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled after notice given under Section X. Regulation V. 1812, to enhance at discretion, (any thing in the existing Regulations to the contrary notwithstanding) the rents of all undertenures in the said estate, and to eject all tenants thereof, with the following exceptions :

First. Tenures which were held as Istemraree or Mocurreree at a fixed rent, more than 12 years before the permanent Settlement.

Secondly. Tenures existing at the time of the Decennial Settlement, which have not been, or may not be, proved to be liable to encrease of assessment, on the grounds stated in Section LI. Regulation VIII. of 1793.

Thirdly. Lands held by Khood Kasht or Kudeemee Ryots having rights of occupancy at fixed rents or at rents assessable according to fixed rules under the Regulations in force.

Fourthly. Lands held under bona fide leases, at fair rents, temporary or perpetual, for the erection of dwelling houses,

houses, or manufactories, or for mines, gardens, tanks, canals, places of worship, burying grounds, clearing of jungle, or like beneficial purposes, such lands continuing to be used for the purposes specified in the leases.

Fifthly. Farms granted in good faith at fair rents and for specified areas by a former proprietor, for terms not exceeding twenty years, under written leases, registered within a month from their date. Provided that a written notice, specifying full particulars of the position, rent and area of the lands, the terms of the lease and the names of the parties shall at the same time be given by the latter to the Collector in every case, and the Collector shall be at liberty to object to the same in the event of his seeing reason to believe that the security of the Public Revenue will be materially affected thereby. The exception declared in this Clause shall not extend to leases objected to by the Collector, by a notification to be fixed up in his Office, with the sanction of the Commissioner, within three months of the date of the notice so made to him by the parties. Provided also, that a purchaser of an estate at a sale for arrears of Revenue shall be at liberty by suit in Court to set aside all such farms although the same be under written and duly registered leases, and although such notice may have been given as aforesaid, if the same shall not have been granted in good faith at fair rents.

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Under-tenures elsewhere.

XXVIII. And it is hereby enacted, that the purchaser of an estate sold under this Act for the recovery of arrears due on account of the same in Districts other than those mentioned

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in Section XXVII. shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be competent to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with ryots or the like settled or credited by the first engager or his representatives, subsequently to the last Settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter, or renew, saving always and except bona fide leases of ground for the erection of dwelling houses, or buildings, or for offices thereunto belonging, or for gardens, tanks, canals, water-courses, or the like purposes, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect. Provided that nothing in this Act contained shall be construed to entitle any purchaser of land at a public sale to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid than was demandable by the former Malgoozar, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, in consequence of abatements having been granted by the former Malgoozars from the old established rates by special favour, or for a consideration, or the like, or in cases in which it may be proved that according to the custom of the pergunnah, Mouzah, or other local division such persons are liable to be called upon for any new assessment, or other demand not interdicted by the Regulations of Government.

Local Government may reserve all under tenures.

XXIX. And it is hereby enacted, that it shall be competent to the Local Government when it shall seem proper at any time before a sale for arrear shall have been actually made, to direct it to be made, subject to the leases, assignments, or other incumbrances, with which a proprietor in possession, his ancestors, or predecessors may have burthened his assessed Estate, or to such of them as shall appear proper. In all such cases, notice of the condition imposed by the Local Government shall be given by the Collector at the time of calling up the lot for sale, and such further notification shall be made as the Local Government may direct: provided, however, that in case the sale so restricted shall not realize an amount equal to the arrear due at the time of sale, or there shall appear ground to apprehend, that by reason of the restriction the future realization of the Revenue will be endangered, it shall be competent to the Local Government at any time before such restricted sale shall have become final and conclusive in the manner laid down in Section XX of this Act, to direct the sale to be cancelled, and a new sale of the estate to be made without other restrictions than those contained in the exceptions specified in Clauses 1 to 5 of Sec. XXVII. of this Act. If after the sale has become final and conclusive, occasion should again arise to bring to sale for arrears an estate purchased with a restriction of the above description, it shall at all times be competent to the Local Government to direct that the *Muhal* shall be sold without any other restriction than those contained in the exceptions specified in Clauses 1 to 5 of Sec. XXVII. of this Act, or with the reservation before reserved. In the former event, should the purchase money realized by the unrestricted

unrestricted sale exceed in a large amount the sum obtained at the restricted sale, it shall further be competent to the Local Government to direct a portion, or the whole of the excess to be paid to persons whose interests having been reserved at the first, shall become void at the second sale.

Purchase by a recorded or unrecorded proprietor or copartner, &c.

XXX. And it is hereby enacted, that excepting copartners of estates under Butwarrah who may have saved their shares from sale under Sections 33 and 34, Regulation XIX. 1814, any recorded or unrecorded proprietor or copartner who may purchase in his own name or in the name of another the estate of which he is proprietor or copartner; or who by re-purchase or otherwise, may recover possession of the said estate after it has been sold for arrears under this Act; and likewise any purchaser of an estate sold for other arrears or demands than those accruing upon itself, shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale and shall not acquire any rights in respect to ryots and under-tenants which were not possessed by the previous proprietor at the time of the sale of the said estate.

Arrears of rent.

XXXI. And it is hereby enacted, that arrears of rent which at the date of sale may be due to the defaulter from his tenants, shall be recoverable by him after a sale by any process except distraint which might have been used by him for that purpose before the sale was made.

Contempt.

XXXII. And it is hereby enacted, that any Collector or Officer exercising the powers of Collector, in respect to sales, shall

shall be competent to punish any contempt committed in his presence in open Cutcherry or Office for the time being, by fine, to an extent not exceeding Co.'s Rs. 200, commutable, if not paid, to imprisonment in the civil jail for a period not exceeding one month; and the Magistrate to whom such an offender may be sent by a Collector as aforesaid, shall carry his sentence into effect. Provided that an appeal from any order passed under this Section shall lie to the Revenue Commissioner, whose decision shall be final

Default. XXXIII. And it is hereby enacted, that a default to make good a bid by making the deposit required by Section XV. of this Act shall be held to be a contempt.

Operation of Act. XXXIV. And it is hereby enacted, that the operation of this Act shall be confined to the Provinces of Bengal, Behar, Orissa and Benares, now subject to the General Regulations and to the Ceded and Conquered Provinces similarly subject to the General Regulations under the Government of the Presidencies of Fort William in Bengal, and nothing in this Act contained shall affect land in the Town of Calcutta or the Settlements of Singapore, Penang or Malacca.

Date of effect XXXV. And it is hereby enacted, that this Act shall have effect on and after the First day of January 1842.

Calcutta:—1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

No. 13 of 1841.

ACT No. XIII. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 16th August, 1841.

An Act for explaining the provisions of Act No. XXV. of 1836.

I. IT is hereby declared and enacted, that the Import Duty on Wine and Spirits in Casks shall be settled on the quantities registered at the time of Importation without any deduction whatsoever: Provided always, that the keeper of every Warehouse indicated by Act No. XXV. of 1836, shall, in accounting with the Customs' Department for the article so warehoused, be allowed ullage on such Wine and Spirits at the rate of 10 per cent. for one year according to the time for which such Wine and Spirits shall have been lodged.

Calcutta:—1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

Rd 4 Octr 1841.

ACT No. XV. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 23d of August, 1841.

An Act for exempting Residents within Calcutta from giving Security in Suits in the Mofussil Courts on certain occasions.

I. WHEREAS great inconvenience has been experienced by Residents within Calcutta by reason of their being obliged to give security in suits in the Mofussil Courts, under Regulation IX of 1819, Section 7. And whereas there is no occasion for requiring such security now that by Act No. XXIII of 1840, property within Calcutta is liable to be seized under the process of the Mofussil Courts;—

It is hereby enacted, that Section 7, Regulation IX. of 1819, of the Bengal Code, is hereby repealed.

Calcutta:—1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XVI. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 30th of August, 1841.

An Act concerning the taking of Oaths of Qualification by Justices of the Peace.

I. WHEREAS inconvenience has arisen in consequence of pursuing the course heretofore deemed necessary for taking of Oaths by Justices of Peace, in order that they may be duly qualified to act under Commissions of the Peace ;—It is hereby enacted, that all persons who are or shall be nominated and appointed in any Commission of the Peace, shall be capable of acting as Justices of the Peace in every respect, according to the tenor of such Commission, upon taking and subscribing in any Civil or Criminal Court of Justice within the places in and for which any such Commission shall have issued before the Officer presiding in such Court, whether such Officer be a Justice of the Peace or not, the Oaths appointed to be taken by Justices of the Peace; and the subscription of such persons to the said Oaths shall be deposited and kept with the Records of the Courts of Justice in which the said Oaths shall have been administered.

II.

II. And it is hereby enacted, that every Justice of the Peace who, before the passing of this Act, shall have had administered to him the Oaths of qualification by any other Justice of the Peace, shall be deemed to have been duly qualified to act as a Justice of the Peace from the time of taking such Oath, and shall continue so qualified notwithstanding such Oath may not have been taken in a Court of Justice as required by any previous Law, or by this Act.

Calcutta :—1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

Reg. 13 - Acts &c.

ACT No. XVII. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 30th of August, 1841.

An Act for amending the proceedings in appeals before the Courts of Sudder Dewanny and Nizamut Adawlut in the Presidency of Fort William in Bengal.

I. IT is hereby enacted, that it shall be competent to either of the Courts of Sudder Dewanny and Nizamut Adawlut, within the Territories subject to the Presidency of Fort William in Bengal, by an Order, under the signature of the Register of such Court, to transfer to such Register the duty of preparing appealed causes for trial, and of executing the decrees and orders of the said Courts, and to authorize him to issue the necessary process, and to proceed thereupon agreeably to the Rules prescribed by the general Regulations of Government.

II. And it is hereby enacted, that in proceedings before the said Courts it shall not be necessary to take any security for costs; and it shall be competent for the said Courts of Sudder Dewanny and Nizamut Adawlut to frame such

such Rules of practice for the due exercise of the Civil and Criminal Jurisdiction vested by the Regulations in those Courts, as may from time to time be found requisite. And such rules when so framed shall be submitted to the Governor General of India in Council; and after the same shall have been approved by the said Governor General of India in Council, they shall be of the same force as if they were inserted in this Act.

Calcutta:—1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XVIII. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 30th of August, 1841.

An Act for consolidating and amending the enactments concerning the exportation of Military Stores.

I. IT is hereby enacted, that Arms, Ammunition and Military Stores (with the exception of Arms in the possession of Individuals for private use) shall not be exported, or otherwise taken from the territories of the East India Company, without a license from a public Officer or Officers for each Presidency, to be indicated by the Governments of the respective Presidencies, for the purpose of granting such licenses, and a full compliance with all such rules and conditions as may be prescribed for the guidance of such Officer or Officers in regard to such exports by the aforesaid Governments respectively. And any Arms, Ammunition or Military Stores which any person shall export, or attempt to export, or take as aforesaid, contrary to this Act, shall thereby become forfeited, on the award of the Officer or Officers authorized as aforesaid to grant licenses, or the Collector of Customs, and every person offending in the premises contrary to this Act shall be liable, on conviction before a Magistrate, to a penalty not exceeding 500 Rupees.

II.

II. And it is hereby enacted, that any person who shall collect or keep in one place, or within places not exceeding three miles in distance from each other, any quantity of Gunpowder exceeding fifty pounds, without a license from such Officer as aforesaid, shall be liable, on conviction before a Magistrate, to a penalty not exceeding 500 Rupees, and such Gunpowder shall become forfeited on the award of the Officer or Officers authorized to grant licenses as aforesaid, or the Collector of Customs.

III. And it is hereby enacted, that it shall be lawful for any of the Governments aforesaid, to allow at any port or ports, the exportation of Arms, Ammunition and Military Stores as aforesaid, without any such license as aforesaid, as they shall deem expedient.

Calcutta :—1841. Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XIX. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 6th of September, 1841.

Act for the protection of moveable and immoveable property against wrongful possession in cases of successions.

I. WHEREAS much inconvenience has been experienced, where persons have died possessed of moveable and immoveable property, and the same has been taken upon pretended claims of right by gift or succession; the difficulty of ascertaining the precise nature of the moveable property in such cases, the opportunities for misappropriating such property and also the profits of real property, the delays of a regular suit when vexatiously protracted, and the inability of heirs when out of possession to prosecute their rights, affording strong temptations for the employment of force or fraud in order to obtain possession. And whereas, from the above causes, the circumstance of actual possession, when taken upon a succession, does not afford an indication of rightful title equal to that of a decision by a Judge after hearing all parties in a summary suit, though such summary suit may not be sufficient to prevent a party removed from possession thereby from instituting a regular suit. And whereas

whereas such summary suit, though it will take away many of the temptations which exist for assuming wrongful possession upon a succession will be too tardy a remedy for obviating them all, especially as regards moveable property: And whereas it may be expedient, prior to the determination of the summary suit, to appoint a Curator to take charge of property upon a succession, where there is reason to apprehend danger of misappropriation, waste or neglect, and where such appointment will, in the opinion of the authority making the same, be beneficial under all the circumstances of the case. And whereas it will be very inconvenient to interfere with successions to estates by the appointment of Curators, or by summary suits, unless satisfactory grounds for such proceedings shall appear, and unless such proceedings shall be required by or on the behalf of parties giving satisfactory proof that they are likely to be materially prejudiced if left to the ordinary remedy of a regular suit :—

It is hereby enacted, that whenever a person dies leaving property, moveable or immoveable, it shall be lawful for any person claiming a right by succession thereto, or to any portion thereof, to make application to the Judge of the Court of the District where any part of the property is found or situate for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.

II. And it is hereby enacted, that it shall be lawful for any agent, relative, or near friend, or for the Court of Wards in cases within their cognizance, in the event of any minor, disqualified, or absent person being entitled by succession to such property as aforesaid, to make the like application for relief.

III. And it is hereby enacted, that the Judge to whom such application shall be made shall, in the first place enquire by the solemn declaration of the complainant,

complainant, and by witnesses and documents at his discretion, whether there be strong reasons for believing that the party in possession or taking forcible means for seizing possession, has no lawful title, and that the applicant, or the person on whose behalf he applies is really entitled and is likely to be materially prejudiced if left to the ordinary remedy of a regular suit, and that the application is made bonâ fide.

IV. And it is hereby enacted, that in case the Judge shall be satisfied of the existence of such strong ground of belief but not otherwise, he shall cite the party complained of, and give notice of vacant or disturbed possession by publication, and after the expiration of a reasonable time shall determine summarily the right to possession (subject to regular suit as hereinafter mentioned) and shall deliver possession accordingly—provided always that the Judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the enquiry necessary for citing the party complained of or not.

V. And it is hereby enacted, that in case it shall further appear upon such application and examination as aforesaid that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, and that the delay in obtaining security from the party in possession, or the insufficiency thereof is likely to expose the party out of possession to considerable risk, provided he be the lawful owner; it shall be lawful for the Judge to appoint one or more Curators with the powers hereinafter next mentioned, whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary suit and the confirmation or delivery of possession in consequence thereof. Provided always that, in the case of land, the Judge may

delegate

delegate to the Collector or to his officer the powers of a Curator, and also that every appointment of a Curator in respect of any property be duly published.

VI. And it is hereby enacted, that the Judge shall have power to authorize such Curator, either to take possession of the property generally, or until security be given by the party in possession, or until inventories of the property shall have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession. Provided always, that it shall be entirely discretionary with the Judge, whether he shall allow the party in possession to continue in such possession on giving security, or not, and any continuance in possession shall be subject to such orders as the Judge may issue touching inventories, or the securing of deeds or other effects.

VII. And it is hereby enacted, that the Judge shall exact from the Curator security for the faithful discharge of his trust, and for rendering satisfactory accounts of the same as hereinafter mentioned, and may authorize him to receive out of the property such remuneration as shall appear reasonable, but in no case exceeding 5 per centum on the personal property and on the annual profits of the real property. All surplus monies realized by the Curator shall be paid into Court, and invested in public Securities for the benefit of the persons entitled thereto upon adjudication of the summary suit. Provided always, that although security shall be required from the Curator with all reasonable despatch, and, where it is practicable, shall be taken generally to answer all cases for which the person may be afterwards appointed Curator, yet no delay in the taking of security shall prevent the Judge from immediately investing the Curator with the powers of his office.

VIII. And it is hereby enacted, that, where the estate of the deceased person shall consist wholly or in part of land paying revenue to Government, in all matters regarding the propriety of citing the party in possession, of appointing a Curator, and of nominating individuals to that appointment, the Judge shall demand a report from the Collector, and the Collector is hereby required to furnish the same. In cases of urgency the Judge may proceed, in the first instance, without such report, and he shall not be obliged to act in conformity thereto, but, in case of his acting otherwise than according to such report, he shall immediately forward a statement of his reasons to the Court of Sudder Dewany Adawlut, and the Court of Sudder Dewany Adawlut, if they shall be dissatisfied with such reasons, shall direct the Judge to proceed conformably to the report of the Collector.

IX. And it is hereby enacted, that the Curator shall be subject to all orders of the Judge regarding the institution or the defence of suits, and that all suits may be instituted or defended in the name of the Curator on behalf of the estate. Provided that an express authority shall be requisite in the sunnud of the Curator's appointment for the collection of debts or rents; but such express authority shall enable the Curator to give a full acquittance for any sums of money received by virtue thereof.

X. And it is hereby enacted, that pending the custody of the property by the Curator, shall be lawful for the Judge to make such allowances to parties having a primâ facie right thereto as upon a summary investigation of the rights and circumstances of the parties interested, he shall consider that necessity may require, taking, at his discretion, security for the repayment thereof with interest, in case the party shall, upon the adjudication of the summary suit, appear not to be entitled thereto.

XI. And it is hereby enacted, that the Curator shall file monthly accounts in abstract, and at the period of every three months, if his administration last so long, and upon giving up the possession of the property file a detailed account of his administration to the satisfaction of the Judge.

XII. And it is hereby enacted, that the accounts of any such Curator as is above described shall be open to the inspection of all parties interested; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account of all receipts and payments by such Curator. And if it be found that the accounts of any such Curator are in arrear, or if they shall be erroneous or incomplete, or if the Curator shall not produce them whenever he shall be ordered to do so by the Judge, he shall be liable to a fine not exceeding one thousand Rupees for every such default.

XIII. And it is hereby enacted, that after the Judge of any district shall have appointed any Curator, such appointment shall preclude the Judge of any other district within the same Presidency from appointing any other Curator provided the first appointment be in respect of the whole of the property of the deceased. But if the appointment be only in respect of a portion of the property of the deceased, this shall not preclude the appointment within the same Presidency of another Curator in respect of the residue or any portion thereof; provided always that no Judge shall appoint a Curator or entertain a summary suit in respect of property which is the subject of a summary suit previously instituted under this Act before another Judge—and provided further, that if two or more Curators be appointed by different Judges for several parts of an estate, it shall be la for the Sudder Dewany Adawlut to make such order as it shall think fit fo[illegible]e appointment of one Curator of the whole property.

XIV.

XIV. And it is hereby provided, that this Act shall not be put in force, unless the aforesaid application to the Judge be made within six months of the decease of the proprietor, whose property is claimed by right in succession.

XV. And it is hereby enacted, that this Act shall not be put in force to contravene any public act of Settlement. Neither in cases in which the deceased proprietor shall have given legal directions for the possession of his property after his decease in the event of minority or otherwise, in opposition to such directions, but, in every such case, so soon as the Judge having jurisdiction over the property of a deceased person, shall be satisfied of the existence of such directions, he shall give effect thereto.

XVI. And it is hereby provided, that this Act shall not be put in force, for the purpose of disturbing the possession of the Court of Wards of any Presidency; and in case a minor, or other disqualified person whose property shall be subject to the Court of Wards, shall be the party on whose behalf application is made under this Act, the Judge if he determines to cite the party in possession and also appoint a Curator, shall invest the Court of Wards with the Curatorship of the estate pending the suit without taking such security as aforesaid, and in case the minor or other disqualified person shall, upon the adjudication of the summary suit appear to be entitled to the property, possession shall be delivered to the Court of Wards.

XVII. And it is hereby provided, that nothing in this Act contained shall be any impediment to the bringing of a regular suit either by the party whose application may have been rejected after citing the party in possession, or by the party who may have been evicted from the possession under this Act.

XVIII.

XVIII. And it is hereby enacted, that the decision of the Judge upon the summary suit under this Act shall have no other effect than that of settling the actual possession; but that for this purpose it shall be final, not subject to any appeal or order for review.

XIX. And it is hereby enacted, that it shall be lawful for the Governments of the respective Presidencies to appoint public Curators for any district or number of districts. And the Judge having jurisdiction shall nominate such public Curator or Curators in all cases where the choice of a Curator is left discretionary with him under preceding provisions of this Act.

XX. And it is hereby enacted, that whenever a person dies leaving moveable or immoveable property within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts, and such Court shall be satisfied that danger is to be apprehended of the misappropriation and waste of the property before it can be ascertained who may be legally entitled to the succession to such property, it shall be lawful for the said Court to authorize and enjoin the Ecclesiastical Registrar, or one or more Curators to collect such effects, and hold or deposit or invest the same in such manner and place and upon such security and subject to such orders and directions as the Court may deem expedient.

Calcutta :—1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XX. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 6th of September, 1841.

An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.

I. WHEREAS it is expedient to provide greater security for persons paying to the Representatives of deceased Hindoos, Mahomedans, and others not usually designated as British Subjects, debts which are payable in respect of the estates of such deceased persons, and to facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same :—

It is hereby enacted, that no debtor of any deceased person shall be compelled in any Court of Law to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof, except on the production of a certificate to be obtained in manner hereinafter mentioned, or of a

No debt recoverable without a certificate.

Probate

Probate or Letters of Administration, unless the Court shall be of opinion that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.

Manner of obtaining certificate.

II. And it is hereby enacted, that the Zillah or District Court within the jurisdiction of which any part of the property of the deceased may be found shall have authority to grant a certificate under this Act. The applicant in his petition shall set forth his title. The Judge shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and upon the appointed day, or as soon after as may be convenient shall determine the right to the certificate, and grant the same accordingly.

Effect of certificate.

III. And it is hereby enacted, that the certificate of the District or Zillah Judge shall be conclusive of the representative title against all debtors to the deceased, and shall afford full indemnity to all debtors paying their debts to the person in whose favor the certificate has been granted.

Security taken from grantee of certificate.

IV. And it is hereby enacted, that the District or Zillah Judge may take such security as he shall think necessary from any person to whom he shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the monies received by virtue of such certificate, whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.

V.

Decision of Judge how far final.

V. And it is hereby enacted, that the granting of such certificate may be suspended by an appeal to the Court of Sudder Dewanny Adawlut, which Court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit. The Court may also upon petition, after a certificate shall have been granted by the District or Zillah Judge, grant a fresh certificate in supersession of the certificate granted by the District or Zillah Judge, and such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted without notice that the same has been superseded, but shall entitle the person named therein to receive all monies that may have been recovered under the first certificate from the person to whom the same may have been granted.

Local extent of power given by certificate.

VI. And it is hereby enacted, that every certificate shall give authority to the person to whom the same is granted throughout the Presidency within which the same is granted, and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned.

Government Notes and Dividends.

VII. And it is hereby enacted, that a person certified as aforesaid, may be empowered to receive interest on Government Notes and Dividends, or on Shares of any Bank or parts thereof, and to negotiate such Securities. He may be also empowered to receive a share of such interest on any Bonds or to negotiate a share of such Securities. But these powers shall only arise by express words in the certificate.

VIII.

Payments under certificate void by reason of previous certificate.

VIII. And it is hereby enacted, that where a certificate shall have been granted in cases in which such certificate would be valid, but for the previous grant of a certificate, all payments made to the person holding the later certificate in ignorance of the grant of the previous certificate shall be held good against claims under such previous certificate.

Certificate after previous grant of Probate or Letters void.

IX. And it is hereby enacted, with regard to the property of deceased Hindoos, Mahomedans and other persons not usually designated by the term British Subjects, that no certificate in respect of any such property shall be valid, if made after a Probate or Letters of Administration granted in respect of the same, provided assets belonging to the deceased were at the time of his death within the local jurisdiction of the Court granting the Probate or Letters of Administration.

Bonâ fide payments protected.

X. And it is hereby provided, that where a certificate shall have been granted in cases in which such certificate would be valid, but for a Probate or Letters of Administration previously granted, all payments made to the person holding the certificate in ignorance of the previous granting of the Probate or Letters of Administration, shall be held good against claims under the Probate or Letters of Administration so previously granted.

Probate or Letters after previous grant of certificate.

XI. And it is hereby enacted, that no Probate or Letters of Administration shall be valid for the purpose of the recovery of debts or for the security of debtors, after a certificate granted in respect of the same property for which such Probate

or

or Letters of Administration shall have been granted, provided assets belonging to the deceased were at the time of his death within the jurisdiction of the Court granting such certificate.

Bonâ fide payments protected.

XII. And it is hereby provided, that where Probate or Letters of Administration may have been granted, in cases in which such Probate or Letters of Administration would be valid, but for the previous grant of a certificate, all payments made in ignorance of the previous grant of the certificate shall be held good against claims under such previous certificate.

Curators prohibited from exercising certain powers.

XIII. And whereas under Act No. XIX. of 1841, Curators may be invested with certain powers which are conferred on persons obtaining certificates under this Act, and which belong to Executors and Administrators, it is hereby enacted that Curators appointed under the said Act shall not exercise any powers which, but for that Act, would lawfully belong to such persons obtaining certificates, Executors or Administrators, where a certificate, Probate or Letters of Administration has been actually obtained; but all persons who may have paid debts or rents to a Curator authorized by a Judge to receive the same shall be indemnified, and the Curator shall be responsible for the payment of the same to the person who has obtained a certificate, the Executor, or Administrator, as the case may be.

Effect of Probates and Letters granted to Representatives of Hindoos and others.

XIV. And it is hereby declared and enacted, that all Probates and Letters of Administration granted by any of Her Majesty's Courts in cases in which any assets belonging to deceased persons were, at the time of their deaths, within the local

local jurisdiction of the Court granting the Probate or Letters of Administrations, shall have the effect of Probate and Letters of Administration granted in respect of the property of British Subjects but for the purpose of the recovery of debts only, and the security of debtors paying the same; except so far as is in this Act provided.

Act not to extend property of British subjects.

XV. And it is hereby provided that nothing in this Act contained shall be held to extend to the property of any person usually designated as a British Subject.

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Rec'd 26th Oct 1841.

ACT No. XXI. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 6th of September, 1841.

An Act for the better Prevention of Local Nuisances.

I. IT is hereby enacted, that it shall be lawful for any Magistrate, when the public benefit and comfort are in question, to cause unlawful obstructions and nuisances to be removed from thoroughfares and public places, and to suppress or cause to be removed to a different place, trades or occupations injurious to the health or comfort of the community, and to prevent such construction of buildings and such disposal of combustible substances as may appear to him likely to occasion conflagration, and to cause the removal of buildings in such state of weakness, as, by the probability of their falling, may appear to him to expose individuals to danger.

II. And it is hereby enacted, that, in exercising the authority conferred by the above Section, the Magistrate shall after holding such enquiry as may satisfy him of the necessity of proceeding under this Act, issue an injunction, which, if practicable, shall be served personally on the parties concerned; but if

if such service shall be impracticable or very inconvenient, the injunction shall be notified by oral proclamation and a written notice thereof shall be set up at such place or places as may be best adapted for conveying information to the parties concerned. And in case such injunction be not obeyed, the Magistrate may compel observance thereof by force, and punish disobedience by fine not exceeding 200 Rupees, or by imprisonment without labor for any period not exceeding one month, and if the Magistrate finds it necessary to incur expence in removing noxious or dangerous articles or buildings, it shall be lawful for him to sell the same or their materials by public auction in order to defray the charge, delivering any surplus that may remain to the owner. And it shall be lawful for the Magistrate to compel, under the like penalty, the owners of tanks or wells adjacent to any public thoroughfare to fence the same in such manner as to prevent danger to the public arising therefrom.

III. And it is hereby provided and declared, that it shall be lawful for any person affected by such injunction or written notice as is above described, if he shall object thereto, to claim, by written petition to be presented to the Magistrate within the period of ten days if reasonably practicable, if not, within the shortest reasonable further time from the receipt of such injunction or the publication of such notice, that a Jury or Punchayet may be appointed to try and decide the question; and the Magistrate shall, on receiving such petition, pass order thereupon for the appointment of a Jury or Punchayet, which shall consist of not less than five persons, whereof the President and one-half of the other Members shall be nominated by the Magistrate from the residents in the vicinity, and the remaining Members shall be nominated by the party petitioning. Magistrate shall suspend the further execution of the injunction or or ding such enquiry, and be guided by the decision of the said Jury which shall be according to the opinion of the majority. Provided however that if the petitioner shall by neglect or in any other

way

way prevent the appointment of such Jury or Punchayet, or if, from any cause the Jury so appointed shall not decide and report within a reasonable time to be fixed in the order for their appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate, and if from any of the above causes no decision be made by a Jury or Punchayet, the Magistrate's order shall take effect as if not opposed.

IV. And it is hereby provided, that all the proceedings of Magistrates under the authority of this Act shall be subject to the like appeal as other orders of Magistrates according to the Regulations of the respective Presidencies.

V. And it is hereby enacted, that this Act shall not be applicable within the local limits of Her Majesty's Courts of Justice.

Calcutta.—1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXIV. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 18th October, 1841.

An Act for the greater uniformity of the Law administered by Her Majesty's Supreme Courts with that administered in England, in regard to the undisposed residue of the Effects of Testators; Illusory Appointments; the transfer of Estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons, and other like matters.

I. IT is hereby enacted, that the Statute XI. George IV. and 1 William IV. Ch. 40, entitled "an Act for making better provision for the disposal of the undisposed of residues of the Effects of Testators," shall be extended to the Territories of the East India Company as far as it is applicable to the same. Provided that this Act shall take effect from the first day of January next, which day is substituted for the first day of September mentioned in the Statute.

II. And it is hereby enacted, that the Statute XI. George IV. and 1 William IV. Ch. 46, entitled "an Act to alter and amend the Law relating to

Illusory

Illusory Appointments," and the Statute XI. George IV. and 1 William IV. Ch. 65, entitled "an Act for consolidating and amending the Law relating to property belonging to infants, feme coverts, idiots, lunatics and persons of unsound mind," shall, from the first day of January next, be extended to the Territories of the East India Company, as far as it is applicable to the same.

III. And it is hereby enacted, that the Statute XI. George IV. and 1 William IV. Ch. 60, entitled "an Act for amending the Laws respecting conveyances and transfers of Estates and Funds vested in Trustees and Mortgagees, and for enabling Courts of Equity to give effect to their Decrees and Orders in certain cases," except so much thereof as provides that it shall not extend to cases of partition, shall, from the first day of January next, be extended to the territories of the East India Company, as far as it is applicable to the same, and all provisions contained in the last mentioned Statute relating to the Lord Chancellor of Great Britain, intrusted as therein is mentioned, or to Courts of Chancery, or their Decrees, shall be applicable to Her Majesty's Supreme Courts of the respective Presidencies. And the indemnity and discharge mentioned in the last Section of the same Act shall be applicable to the East India Company, and all Corporate Societies established within the territories of the East India Company and their Officers and Servants.

IV. And whereas it is expedient to adopt the amendments of the English Law touching the delay of action, suits, or other proceedings, by reason of the parol demurring; and touching conveyances made by Infants under order of Courts; it is hereby enacted, that Sections 10 and 11 of the XIth Geo. IV. and 1 William IV. Ch. 47, entitled "an Act for consolidating and amending "the Laws for facilitating the payment of debts out of real Estate," shall, from the

the first day of January next, be extended to the Territories of the East India Company, as far as it is applicable in the same.

V. And it is hereby provided, that this Act shall not be construed to to affect any case which would not have been governed by English Law as administered by Her Majesty's Supreme Courts previous to the passing thereof, or any proceedings at Law or in Equity commenced before the first day of January next.

Calcutta, 1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

No 24 Bond 41

ACT No. XXV. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 18*th October*, 1841.

An Act for amending the Law concerning imprisonment for contempts of decrees or orders made by Courts of Equity.

I. IT is hereby enacted, that when any person shall have been directed by any Decree or Order in Equity of Her Majesty's Supreme Courts to execute any deed or instrument, or make a surrender or transfer, or to levy a fine, and shall have refused or neglected to execute, make or transfer or levy the same, and shall have been committed to prison under process for such contempt or being confined in prison for any other cause shall have been charged with or detained under process for such contempt and shall remain in such prison, the Court may upon motion or petition and upon affidavit that such person has after the expiration of two calendar months from the time of his being committed under or charged with or detained under such process again refused to execute such deed or instrument, or make such surrender or transfer or levy such fine, order or appoint, the Master or Registrar of the said Courts to execute such deed or other instrument, or to make such surrender or transfer for and in the name

of

of person, and to levy such fine in his name and to do all acts necessary to give validity and operation to such fine, and to lead or declare the uses thereof, and the execution of the said deed or other instrument, and the surrender or transfer made by the said Master or Registrar, and the fine levied by him, shall in all respects have the same force and validity as if the same had been executed, or made or levied by the party himself, and within ten days after the execution or making of any such deed or other instrument, or surrender or transfer, or levying such fine, notice thereof shall be given by the adverse Solicitor to the party in whose name the same is executed or made, and such party as soon as the deed or other instrument or surrender, transfer or fine, shall be executed, made or levied, shall be considered as having cleared his contempt, except as far as regards the payment of the costs of the contempt, and shall be entitled to be discharged therefrom under any of the provisions of this Act applicable to his case, and the Court shall make such order as shall be just touching the payment of the cost of or attending any such deed, surrender, instrument, transfer or fine.

II. And it is hereby enacted, that where a person shall be committed for a contempt in not delivering to any person or persons, or depositing in Court or elsewhere, as by any order in Equity of Her Majesty's Supreme Courts may be directed, books, papers or any other articles or things, the Sheriff under any writ of sequestration shall have the same power, to seize and take such books, papers, writings or other articles, or things being in the custody or power of the person against whom the sequestration issues, as they would have over his own property, and thereupon such articles or things so seized and taken shall be dealt with by the Court as shall be just, and after such seizure it shall be lawful for the Court upon the application of the prisoner, or any other person in the cause or matter

matter to make such order for the discharge of the prisoner upon such terms as to the Court shall seem proper.

III. And it is hereby enacted, that the discharge of any prisoner adjudicated upon under the authority of an Act passed in the 9th G. 4 C. 73, intituled "an Act to provide for the Relief of Insolvent Debtors in the East Indies until the 1st day of March 1833," last continued by an Act passed in the 3 and 4 Vic. C. 80, shall and may extend to all process in Equity issuing from Her Majesty's Supreme Courts for any contempt of such Court for non-payment of money, or of costs, charges of expences in any such Court, and that in such case the said discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same and every discharge so adjudicated as aforesaid as to any debt or damages of any creditor of such prisoner shall be deemed to extend, also to all costs incurred by such creditor before the filing of such prisoner's schedule, in any action or suit brought by such creditor against such prisoners for the purpose of the recovery of the same, and that all persons as to whose demands, for any such costs, money, or expences, any such person shall be so adjudged to be discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by the said last mentioned Acts, subject, nevertheless, to such ascertaining of the amount of the said demands as may be had by taxation, or otherwise, and to such examination thereof as is in the said last mentioned Acts, provided in respect of all claim to a dividend of such Insolvent's Estate and Effects.

IV. And be it further enacted, that in all cases of contempt, where any person or persons are, or is, or shall, at any time hereafter be in prison under

under or by reason of any commitment or attachment in Equity directed by or issued out of Her Majesty's Supreme Courts, such Court shall (upon the application of the person or persons against whom such commitment or attachment hath been directed or issued,) have the power if it shall so think fit, to discharge such person or persons from their, his, or her contempt, except as to the costs thereof, for which costs they, he, or she shall remain in custody, and such costs shall be deemed within the provisions of the last preceding Section of this Act—and they, he, or she shall be discharged therefrom, and from the process of contempts in like manner as in the last preceding Section of this Act provided for in cases of process of contempt for non-payment of money or costs. Provided that this Act shall not weaken any of the other powers by this Act given, and that nothing herein contained shall alter or affect the operation of the said Acts for the Relief of Insolvent Debtors.

Calcutta :—1841.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXVI. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 18*th October*, 1841.

An Act for extending in cases governed by English Law certain provisions of the Statute 3d and 4th William IV. Ch. XLII, entitled "An Act for the further amendment of the Law and the better advancement of Justice."

I. WHEREAS there is no remedy provided in cases governed by English Law for injuries to the Real Estate of any person deceased, committed in his life time, nor for certain wrongs done by a person deceased in his life time to another in respect of his property, real or personal; for remedy thereof it is hereby enacted, that an Action of Trespass or Trespass on the case, as the case may be, may be maintained by the Executors or Administrators of any person deceased for any injury to the Real Estate of such person, committed in his life time, for which an action might have been maintained by such person, so as such injury shall have been committed within six calendar months before the death of such deceased person, and provided such action shall be brought within one year after the death of such person; and the damages when recovered,

recovered, shall be part of the personal Estate of such person; and further that an Action of Trespass or Trespass on the case, as the case may be, may be maintained against the Executors or Administrators of any person deceased for any wrong committed by him in his life time to another in respect of his property, real or personal, so as such injury shall have been committed within six calendar months before such person's death, and so as such action shall be brought within six calendar months after such Executors or Administrators shall have taken upon themselves the Administration of the Estate and Effects of such person; and the damages to be recovered in such action shall be payable in like order of Administration as the simple contract debts of such person.

II. And it is hereby enacted, that no wager of Law shall be hereafter allowed.

III. And it is hereby enacted, that an action of debt on simple contract shall be maintainable in any of Her Majesty's Supreme Courts against any Executor or Administrator.

IV. And it is hereby enacted, that it shall be lawful for the Defendant in all personal actions (except actions for Assault and Battery, False Imprisonment, Libel, Slander, Malicious Arrest or Prosecution, Criminal Conversations or Debauching of the Plaintiff's Daughter or Servant,) by leave of any of Her Majesty's Supreme Courts where such action is pending, or a Judge of any of the said Courts, to pay into Court a sum of money by way of Compensation or Amends, in such manner and under such regulations as to the payment of costs and the form of pleading as the said Judges or such Courts respectively shall by any rules or orders by them to be from time to time made, order and direct.

V.

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V. And it is hereby enacted, that it shall be lawful for the parties in any action or information, after issue joined, by consent and by order of any of the Judges of the said Courts, to state the facts of the case, in the form of a special case, for the opinion of the Court, and to agree that a judgment shall be entered for the Plaintiff or Defendant, by confession or of nolle proseque, immediately after the decision of the case, or otherwise as the Court may think fit; and judgment shall be entered accordingly.

VI. And it is hereby enacted, that the name of every witness objected to as incompetent on the ground that the judgment in the action would be admissable in evidence for or against him shall at the trial be indorsed on the Record or Document on which the trial shall be had, together with the name of the party on whose behalf he was examined by some Officer of the Court, at the request of either party, and shall be afterwards entered on the record of the judgment; and such indorsement or entry shall be sufficient evidence that such witness was examined in any subsequent proceeding in which the judgment shall be offered in evidence.

VII. And it is hereby enacted, that every such Court as aforesaid on the trial of any issue, or on any inquisition of damages, may, if they shall think fit, give damages in the nature of interest, over and above the value of the goods at the time of the conversion or seizure, in all Actions of Trover or Trespass de bonis asportatis, and over and above the money recoverable in all actions on Policies of Assurance made after the passing of this Act.

VIII. And it is hereby enacted, in cases which would be governed by English Law, that it shall be lawful for the Executors or Administrators of any Lessor or Landlord to distrain upon the Lands demised for any term, or at will, for the arrearages of rent due to such Lessor or Landlord in his life time,

time, in like manner as such Lessor or Landlord might have done in his life time.

IX. And it is hereby enacted, that such arrearages may be distrained for after the end or determination of such Term or Lease at will, in the same manner as if such Term or Lease had not been ended or determined ; provided that such distress be made within the space of six calendar months after the determination of such Term or Lease, and during the continuance of the possession of the Tenant from whom such arrears become due : provided also, that all and every the powers and provisions of Law relating to distresses for rent shall be applicable to the distresses so made as aforesaid.

Calcutta, 1841 :—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXVII. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 18th October 1841.

An Act for appropriating the unclaimed Dividends on Insolvent Estates.

I. WHEREAS pursuant to the Orders of the Courts for the Relief of Insolvent Debtors at the several Presidencies, divers sums on account of unclaimed Dividends on Insolvent Estates have from time to time been paid over by the Assignees of such Insolvent Estates into the hands of the Accountant General and Sub-Treasurer of the East India Company at such several Presidencies with the privity of the Accountant General of the said Insolvent Courts to the credit of the persons named in the Schedules as Creditors of such Insolvents respectively ;—and whereas it is expedient that in the event of no claim being established to such unclaimed Dividends or any part thereof, within a reasonable time, such Dividends should be distributed among such of the Creditors of such Insolvent Estates as shall have established their claims against such Estates respectively ;—

It is therefore enacted, that it shall be lawful for the said Courts of Insolvent Debtors respectively in the event of no claim being established to such Dividends

Dividends or any part thereof, within six years after any Dividend shall have been so paid over, as aforesaid, to order the same to be repaid to such Assignees, to be by them distributed among such of the Credtors of such Insolvent Estates as shall have established their claims against such Estates respectively, and to order such claims to be expunged from such Schedules. Provided that this Act shall not affect the right of any party to be paid such Dividends out of any future Assets, which may come to the hands of the Assignees, together with any future Dividends which may be declared on such Insolvent Estates respectively in the event of any such claim being afterwards established.

II. And it is hereby enacted, that no such unclaimed Dividend shall at any time be distributed under this Act unless a Statement of such unclaimed Dividends be previously published in manner following: One year at least before making any such division as aforesaid a Statement shall be published three times in the English language, and also in one or more native languages in the Official Gazettes of the respective Presidencies, which Statement shall contain the names and descriptions as contained in the Schedules of all parties in respect of whose claims Dividends are reserved, together with the amount of such claims respectively, and shall specify whether any former Dividend or Dividends have been paid in respect thereof, and whether any proof shall have at any time been made of the debt whereby any Dividend may have accrued. Provided always that this Act shall not authorize the distribution of any such Dividend except where no person shall at any time have substantiated any claim to the debt in respect of which such Dividend may have become due.

III. And it is hereby further enacted, that in case it shall appear that any Insolvent is indebted to any Domestic Servants for Wages, it shall be lawful

lawful for such Courts at or before the time of declaring a Dividend to order the amount due for such Wages, but not exceeding in the whole the amount of six months' Wages to be paid to such Servants out of the Estate of such Insolvents.

IV. And be it enacted, that this Act shall not take effect until the first day of January 1843.

Calcutta, 1841 :—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

ACT No. XXVIII. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 15th November, 1841.

An Act for extending Act No. XXIII. of 1839, *to Camp Followers.*

I. IT is hereby enacted, that in cases in which an offender, being a Soldier, is punishable under Act No. XXIII. of 1839—Any offender amenable to any Articles of War for the East India Company's Native Forces, not being a Commissioned Officer, shall be punishable according to that Act, as well as otherwise according to law; and Act No. II. of 1840, shall be applicable to offenders imprisoned under this Act.

Calcutta, 1841:—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

No. 11 January 1842.

RULES

FOR THE FUTURE APPROPRIATION OF THE SURPLUS

FERRY COLLECTIONS.

1. Committees shall be formed in each District for the management of the Surplus Ferry Funds collected under Regulation VI. 1819, and applicable under Clause II. Section VII. of that Enactment, for the promotion of the convenience and safety of Travellers and the facility of Commercial intercourse.

2. Each District Committee shall consist of not more than nine persons, of whom three shall form a quorum. The Magistrate of the District and the Executive Officer of the Division shall be ex-officio Members of the Committee. The remainder shall, in the first instance, be appointed by Government upon the recommendation of the Superintendent of Police, and shall consist as well of persons out of the service, Natives and Europeans, as of those who are connected with it. Future vacancies to be filled up by the Superintendent of Police, subject to the approbation of Government.

3. The Superintendent of Police shall be a Member of the Local Committees and preside at the Meetings whenever he is present. He shall also have a casting vote, whether absent or present, when opinions are divided.

4. The whole country is divided into Unions; the Surplus Ferry Funds in these are to be thrown together and divided between the several Districts which compose them.

5. The Unions shall be as follows :—

1st Union.	*2d Union.*
Sarun.	Shahabad.
Champarun.	Patna.
Tirhoot.	Behar.

3d Union.	*4th Union.*
Monghyr.	Dinagepore.
Bhagulpore.	Rajshahye.
Purneah.	Pubna.
Maldah.	Rungpore.
	Bograh.

5th Union.	*6th Union.*
Mymensingh.	Chittagong.
Sylhet.	Tipperah.
Dacca.	Noacolly.

7th Union.	*8th Union.*
Furreedpore.	Nuddea.
Backergunge.	Moorshedabad.
Jessore.	24-Pergunnahs.
	Baraset.

9th Union.

Beerbhoom.
Burdwan.
Bancoorah.
Midnapore.
Hooghly.

6. At the close of each official year, the Accountant will ascertain what is the amount of the Surplus Ferry Funds in each Union during the preceding year, and distribute the total equally amongst the several Districts comprised in it, the Government reserving to itself the power of making a different allotment of the Funds, should such alteration hereafter appear expedient.

7. Each Committee will keep a book, in which will be entered Minutes of all its Proceedings and Resolutions. The Proceedings of each Meeting shall be attested by the Members present. This book shall always be open to the inspection of any person who may be desirous of perusing it.

8. Any Member of a Committee shall have the power to demand a reference to the Government through the Superintendent of Police on any point on which he may differ from the majority.

9. The Superintendent of Police, on the recommendation of the Committee, is competent to sanction Establishments to the amount of Rupees

150 per mensem, and Estimates for works to the extent of Rupees 500 on any one work. Larger undertakings than the above, must be submitted through the Superintendent of Police to the Government, for approval—the opinion of the Executive Engineer being previously recorded in each case.

10. The Disbursements will be exhibited as heretofore in the Magistrate's Accounts, and passed under the Rules applicable to such cases. The Magistrates will pay on an Order signed by three Members of the Committee, and the authority of the Superintendent of Police.

11. These Rules relate exclusively to Surplus Funds, accruing after the 30th April 1840. No Surplus which may have accrued in any District before that date, can be expended without the express sanction of the Government of India.

ACT No. XXIX. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 13th December, 1841.

An Act for amending such parts of the Bengal and Madras Codes as concern the dismissal of Suits and Appeals for neglecting to proceed in the same.

I. IT is hereby enacted, that if a Plaintiff or Appellant in any Court shall, at any time, neglect to proceed in his Suit or Appeal for six weeks, the Suit or Appeal shall be dismissed; and it shall not be necessary to give the Plaintiff or Appellant any notice previous to dismissing his Suit or Appeal. The Suit or Appeal shall be dismissed as of course after the expiration of six weeks without any proceeding on the part of the Court, or of the Defendant, or otherwise, or assignment of any reasons, unless the Plaintiff or Appellant, or his representative in case of his death, upon special application, shall have previously satisfied the Court of the propriety of allowing further time. The Court shall record upon the proceedings the reasons at large for allowing further time in all cases in which further time may be allowed, but it shall not be necessary to specify the reasons for refusing any application for further time.

II. And it is hereby enacted, that in all cases in which a Suit or Appeal is dismissed under the preceding Section the Court shall award to the Defendant

Defendant or Respondent the costs he may have incurred in the Suit or Appeal. But such dismissal shall be no impediment to the institution of a new Suit or Appeal, where the party is not precluded by lapse of time, or period of Appeal, or otherwise than by the mere circumstances of having instituted the Suit or Appeal dismissed and of such dismissal, and such dismissed Suit or Appeal shall not prevent lapse of time under the Law of Limitations being incurred.

III. And it is hereby enacted, that Clause 2, Section 27, Regulation XXIII of 1814, of the Bengal Code, and Clause 2, Section 26, Regulation VI. of 1816, of the Madras Code, are repealed, and no appeal shall lie against the decision passed in accordance with the provisions of the preceding Clauses of this Act, other than a summary appeal on the fact of default.

Calcutta, 1841 :—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

Bo 13 Jany/42

ACT No. XXX. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 20th December, 1841.

An Act for repressing obstructions to Justice in certain Courts of the East India Company.

I. WHEREAS sufficient provision is not made for repressing obstructions to Justice committed in the Courts of the East India Company ;—It is hereby enacted that all persons whatsoever, whether generally amenable to the Courts of the East India Company or otherwise, using menacing gestures or expressions, or otherwise obstructing Justice in the presence of any Zillah or City Magistrate, Joint Magistrate, or other Officer under a Magistrate empowered to try Criminal cases, or any superior or inferior Court, Civil or Criminal, of the East India Company, shall be liable to be fined by the Authority whose proceedings are obstructed to any amount not exceeding 200 Rupees, or in case such fine be not paid to be imprisoned for any period not exceeding one month. Provided that from the award of punishment in such cases an appeal shall lie, if preferred within one month, to the Authority, Civil or Criminal, appointed by Law to hear appeals in all other cases from the decisions of the Officer by whom the fine was imposed; and provided also that notwithstanding any thing in this Act it shall be lawful to indict any person amenable to Her Majesty's Supreme Courts

Joint Magistrate or Officer exercising the powers of Magistrate, within one month from the date of such Sentence or Order. And from every Sentence or Order in Criminal trials beyond the limitation prescribed by Sections VIII. and IX. Regulation IX. 1793, Section IV. Regulation XVI. 1795, and Sections VIII. and IX. Regulation VI. 1803, or in judicial proceedings other than Criminal trials passed by a Magistrate, Joint Magistrate, Assistant to a Magistrate vested with special powers, or other Officer empowered to try Criminal cases, there shall be permitted within one month as aforesaid one appeal to the Sessions Judge. And from every Sentence or Order passed in Criminal trial by a Sessions Judge, there shall be permitted within three months one appeal to the Court of Nizamut Adawlut. And except as provided in the next Section of this Act the Sentences or Orders passed upon such appeals shall be final.

III. And it is hereby enacted, that it shall be at all times lawful for the Courts of Nizamut Adawlut to call for the records of any Criminal trials of any Subordinate Court and to pass upon them such orders as may seem fit.

IV. Provided however, and it is hereby enacted, that it shall not be lawful for the Court of Nizamut Adawlut in cases so called for, or for any Criminal Court in Appeals preferred to it, to enhance any punishment awarded, or to punish any person acquitted by the Court below.

V. And it is hereby enacted, that it shall be at all times lawful for a Sessions Judge and for a Magistrate, Joint Magistrate or Officer exercising the powers of Magistrate, to call for and examine the records of any Court immediately subordinate to their respective Courts, for the purpose of satisfying themselves

themselves as to the regularity of the proceedings of such Subordinate Courts: But it shall not be lawful for any Court under the degree of the Nizamut Adawlut to alter any Sentence or Order of any Subordinate Court, except upon Appeal by parties concerned, duly made according to the provisions of this Act.

VI. And it is hereby enacted, that it shall be competent to a Sessions Judge to refer to the Nizamut Adawlut any trial in which he may consider the sentence he is empowered to pass, inadequate to the guilt of the prisoner, any thing in the existing Regulations to the contrary notwithstanding.

VII. And it is hereby enacted, that nothing in this Act contained shall be held to alter or interfere with the powers and duties of a Superintendent of Police as laid down in Act No. XXIV. of 1837, and other parts of the Bengal Code.

Calcutta, 1842.—Printed at the Bengal Military Orphan Press, by G. H. Huttmann.

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the

	Act.	Section.	Clause.
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Stat.

	Act.	Section.	Clause.
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	Act.	Section.	Clause.
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